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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1894.

No. 123.

THE PACIFIC COAST STEAMSHIP COMPANY, CLAIMANT OF THE STEAMSHIP "IDAHO," HER ENGINES, &c., APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WASHINGTON.

FILED APRIL 7, 1891.

(14,569.)

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a United States Circuit Court, District of Washington, Northern Division. In Admiralty.

THE UNITED STATES OF AMERICA, Libellant, *vs.* THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, Apparel, and Furniture, Respondent; The Pacific Coast Steamship Co., Claimant.	No. 12.

P. H. Winston, proctor for libellant.
J. C. Haines, proctor for claimant.

1 TERRITORY OF WASHINGTON, *Third Judicial District,* } *ss:*

In the District Court, Holding Terms at Seattle.

THE UNITED STATES OF AMERICA *vs.* THE STEAMSHIP "IDAHO," HER ENGINES, Boilers, Tackle, Apparel, and Furniture.	Libel of Information.

To the Honorable Roger S. Greene, judge of the above-entitled district court:

Be it remembered that on this 29th day of January, A. D. 1886, before the Honorable Roger S. Greene, judge as aforesaid, comes William H. White, attorney for the United States, by C. H. Hanford, his assistant, and in the name and behalf of the United States as well as of H. F. Beecher, collector of customs for the collection district of Puget sound, in the Territory of Washington, and of all persons concerned, propounds and gives the said judge to understand and be informed that at a time past, to wit, on the 29th day of January, A. D. 1886, at the port of Port Townsend, in said district, and on waters navigable from the sea by vessels of ten or more tons burden, he, the said H. F. Beecher, collector as aforesaid, did seize and now hath in his custody within the collection district aforesaid, in the third judicial district of Washington Territory and within the jurisdiction of this court, as being forfeited to the United States a certain vessel or steamship called the "Idaho," her engines, boilers, tackle, apparel, and furniture, of the value then and there of seventy-five thousand dollars, for that at a time past, to wit, of the 21st day of December, A. D. 1885, at a place called Kaasan bay, in the Territory of Alaska and within the jurisdiction of this court, certain merchandise, to wit, three thousand and eleven and one-half pounds of prepared opium, then and there of the value
2 of $86,138.00, was fraudulently and with the knowledge and consent of James Carroll, who was then and there the master of said vessel, and with the intent on the part of said master thereby to defraud the United States, brought into the United States

in and on board of said vessel from a foreign port, to wit, the port of Victoria, in the province of British Columbia, and no part of said merchandise was included or described in the manifest of the cargo of said vessel, by reason whereof and by the force of sections numbered 2806, 2807, and 2809 and 3088 of the Revised Statutes of the United States the said master has incurred a penalty and become indebted to the United States in the sum of $108,414.00 and the said vessel has become and is now subject to a lien for said penalty.

Second count. And the said United States attorney further information makes and gives the said judge to understand and be informed that at a time past, to wit, on the 29th day of January, 1886, at the port of Port Townsend, in said district, and on waters navigable from the sea by vessels of ten or more tons burden, he, the said H. F. Beecher, collector of customs as aforesaid, did seize and now hath in his custody within the collection district aforesaid, in the third judicial district of Washington Territory and within the jurisdiction of this court, as being forfeited to the United States a certain vessel or steamship called the "Idaho," her engines, boilers, tackle, apparel, and furniture, of the value then and there of seventy-five thousand dollars, for that at a time past, to wit, on the 14th day of January, 1886, at the port of Port Townsend aforesaid, certain merchandise, to wit, six hundred and twenty-seven and one-half pounds of prepared opium, then and there of the value of seven thousand five hundred and thirty dollars, was fraudulently and with the knowledge and consent of James Carroll, who was then and there the master of said vessel, and with the intent on the part of said master thereby to defraud the United States, brought into the United States in and on board of said vessel from a foreign port, to wit, the port of Victoria, in the province of British Columbia, and no part of said merchandise was included or described in the manifest of the cargo of said vessel, contrary to the form of the
3 statute in such cases made and provided, by reason whereof and by the force of sections 2806, 2807, and 2809 and 3088 of the Revised Statutes of the United States the said master has incurred penalty and become indebted to the United States in the sum of twenty-two thousand five hundred and ninety dollars ($22,590.00), and the said vessel has become and is now subject to a lien for said penalty.

Third count. And the said United States attorney further information makes and gives the said judge to understand and be informed that at a time past, to wit, on the 29th day of January, A. D. 1886, at the port of Port Townsend, in the collection district of Puget sound, in the Territory of Washington, and on waters navigable from the sea by vessels of ten or more tons burden, H. F. Beecher, collector as aforesaid, did seize and now hath in his custody, in the collection district aforesaid and within the third judicial district of Washington Territory and within the jurisdiction of this court, a certain vessel or steamship called the "Idaho," her engines, boilers, tackle, apparel, and furniture, of the value of then and there of seventy-five thousand dollars, to enforce a lien thereon

in favor of the United States for certain penalties incurred by the master and mate of said vessel, for that at a time past, to wit, on the 21st day of December, A. D. 1885, at a place called Kaasan bay, in the Territory of Alaska and within the jurisdiction of this court, certain merchandise, to wit, three thousand and eleven and one-half — of prepared opium, then and there of the value of thirty-six thousand one hundred and thirty-eight dollars; was fraudulently, with the knowledge and consent of James Carroll, who was then and there the master of said vessel, and with the intent on the part of said master thereby to defraud the United States, brought into the United States and within the collection district of Alaska aforesaid in and on board of said vessel from a foreign port, to wit, the port of Victoria, in the province of British Columbia, and after the arrival of said vessel laden with said merchandise within the limits of said collection district of Alaska aforesaid and before said vessel had come to a proper place in said district for the discharge of her cargo or any part thereof said merchandise was, at Kaasan bay, in the collection district of Alaska aforesaid, on said 21st day of December, 1885,
4 fraudulently, with the knowledge and consent of the master and mate of said vessel, and with the intent on the part of said master to defraud the United States, unlawfully and clandestinely unladen and discharged from said vessel, without a permit of authority from any officer of the customs to unlade the same and without any necessity or reasonable cause by reason of unavoidable accident, necessity, or distress of weather, the said vessel being then and there bound to the United States from the port of Victoria aforesaid to the port of Sitka and other ports and places in the Territory of Alaska aforesaid, against the form of the statute in such case made and provided, by reason whereof and by force of sec. 2867 of the Revised Statutes of the United States the said master and the mate of said vessel have each respectively incurred a penalty and become indebted to the United States in the sum of one thousand dollars, and the said vessel has become and is now subject to a lien for said penalty.

Fourth count. And the United States attorney further information makes and gives the said judge to understand and be informed that at a time past, to wit, on the 29th day of January, A. D. 1886, at the port of Port Townsend, in the collection district of Puget sound, in the Territory of Washington, and on waters navigable from the sea by vessels of ten or more tons burden, H. F. Beecher, collector *of* as aforesaid, did seize and hath in his custody in the collection district aforesaid, within the third judicial district of Washington Territory and within the jurisdiction of this court, a certain vessel or steamship called the "Idaho," her engines, boilers, tackle, apparel, and furniture, of the value then and there of seventy-five thousand dollars, as being forfeited to the United States, for that at a time past, to wit, on the 21st day of December, A. D. 1885, at a place calles Kaasan bay, in the Territory of Alaska and within the jurisdiction of this court, certain merchandise, to wit, 3,011 and ½ pounds of prepared opium, of the value then and there

of $36,138.00, were fraudulently, with the knowledge and consent of James Carroll, who was then and there the master of said vessel, and with intent on the part of said master thereby to defraud the United States, brought into the United States in and on board of said vessel from a foreign port, to wit, the port of Victoria,
5 in the province of British Columbia, and unladen from said vessel in the night-time, without a permit or license to unlade the same from the collector or any naval officer or other officer of the customs and without any permit or license whatever for such unlading, contrary to the statute in such case made and provided, by reason whereof and by force of secs. 2871, 2872, 2873, and 2874 of the Revised Statutes of the United States the said vessel, her engines, boilers, tackle, apparel, and furniture, have become and are forfeited to the United States.

Wherefore the said United States attorney prays the advisement of the court here in the premises, and for a monition and other proper process, to the end that the said vessel or steamship and her engines, boilers, tackle, apparel, and furniture may be decreed to be and remain forfeited accordingly.

WILLIAM H. WHITE,
United States Attorney for Washington Territory,
By C. H. HANFORD,
His Assistant.

Interrogatories to any Claimant in this Cause.

Did the steamer "Idaho" make a voyage from Victoria, B. C., to Sitka, in Alaska Territory, and return to Port Townsend via Victoria in the month of December, 1885?

2d. Who was master of said vessel on said voyage?

3d. Did said vessel stop at a place called Kaasan bay or Carter's bay, in Alaska Territory, on said voyage? If so, give the date and time of day of arrival and departure of said vessel at and from said place.

4th. Give a full and minute description of all articles or packages landed from said vessel at said place.

5th. At what port or place did the "Idaho" take on board the barrels which were landed from her at Kaasan bay or Carter's bay on said voyage.

WILLIAM H. WHITE,
United States Attorney for Washington Territory,
By C. H. HANFORD,
Assistant U. S. Attorney.

6 And on the back of the foregoing libel of information are endorsed the words and figures following, to wit:

In the district court, third judicial district, holding terms at Seattle. United States, libellant, *vs.* Steamship Idaho. Libel of information. No. 4799. Filed this 29 January, 1886. Greene, J. James Seavey, clerk, by James P. Ludlow, deputy clerk. C. H. Hanford, assistant United States attorney, for libellant.

Journal K, p. 517, Jan. 30, '86.

THE UNITED STATES OF AMERICA *vs.* THE STEAMSHIP "IDAHO," HER ENGINES, BOILERS, TACKLE, APPAREL, AND FURNITURE.	Order of Hearing. No. 4799.

Let this cause be set down for hearing on the 27th day of February, 1886, at the hour of 10 o'clock a. m., at which time all persons having or claiming any interest in said vessel, her engines, boilers, tackle, apparel, and furniture, must appear and make their allegations in that behalf or their default will be entered, and let notice be given in the usual form by publication thereof in the Puget Sound Weekly Argus.

7 TERRITORY OF WASHINGTON, *Third Judicial District,* } *ss:*

In the District Court, Holding Terms at Seattle, King County, Washington Territory.

UNITED STATES OF AMERICA *vs.* THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, Tackle, Apparel, and Furniture, Respondent; James Carroll, Claimant.	No. —. In Admiralty.

To the Honorable Roger S. Greene, judge of the above-named court:

Now comes James Carroll, master of the steamship Idaho, and intervening for the interest of the Pacific Coast Steamship Company, a corporation organized under the laws of the State of California and authorized to do business in Washington Territory, in said steamship, her engines, boilers, tackle, apparel, and furniture, doth allege and propound as follows and appears before this honorable court and makes claim to the said steamship Idaho, her engines, boilers, tackle, apparel, and furniture, as the same were seized by the collector of customs, as and for the reasons and causes alleged in the libel herein and under process of this court, at the instance of the United States of America, and avers that at the time of the seizure thereof he was and now is the master of the said steamship Idaho, and as such master did have and now has possession and is lawful bailee thereof for the owner thereof, hereinafter mentioned; and, further, that the Pacific Coast Steamship Company, a corporation organized and incorporated under the laws of the State of California and authorized to do business in Washington Territory, at the time of the said seizure was and now is the true and *bona fide* owner of said steamship Idaho, her engines, boilers, tackle, apparel, and furniture, as aforesaid, and that no other person is the owner thereof.

Wherefore he prays to defend accordingly, and that this honorable court will be pleased to decree restitution of the said steamship and otherwise right and justice administer in the premises.

JAMES CARROLL.

8 TERRITORY OF WASHINGTON, } ss:
County of King, }

James Carroll, being duly sworn, on oath says that he is the above-named claimant and master of the steamship Idaho mentioned in the claim above; that he has read the foregoing claim, knows the contents thereof, and believes the same to be true.

JAMES CARROLL.

Subscribed and sworn to before me this 29th day of January, 1886.

ROGER S. GREENE,
Chief Justice, &c.

And on the back of the foregoing claim of James Carroll are endorsed the words and figures following, to wit:

In the district court, third judicial district, holding terms at Seattle, Washington Territory. United States, plaintiff, — Steamship Idaho, &c., respondent; James Carroll, claimant. No. 4799. Claim of James Carroll for interest of P. C. S. S. Co. Filed 29th January, 1886. Greene, J. James Seavey, clerk, by James P. Ludlow, deputy. McNaught, Ferry, McNaught & Mitchell, attorneys for —.

9 Journal K, p. 519, January 30, '87.

UNITED STATES OF AMERICA *vs.* THE STEAMSHIP "IDAHO," HER Engines, Boilers, Tackle, Apparel, and Furniture, Respondent; James Carroll, Claimant.	In Admiralty. No. —. Stipulation for Costs.

Whereas a libel was filed in this court on the 29th day of January, 1886, by the United States of America against the steamship Idaho, her engines, boilers, tackle, apparel, and furniture, for the reasons and causes in said libel mentioned, and praying that the same may be decreed to be forfeited;

And whereas also a claim has been filed in said cause by James Carroll, and the said claimant, James Carroll, and P. B. Cornwall and R. W. De Lion, as sureties, the parties thereto thereby consenting that in case of default or contumacy on the part of the claimant or his sureties a summary decree may be entered against them and each of them, and that execution issue thereon for the sum of two hundred and fifty dollars against their goods, chattels, and lands: Now, therefore, we, the undersigned stipulators, submitting ourselves to be bound unto the said United States or whomsoever it may concern, the said James Carroll and the said P. B. Cornwall and R. W. De Lion, as sureties, jointly and severally, in the sum of two hundred and fifty dollars, lawful money of the United States, conditioned that if the claimant above named shall pay all costs and expenses which shall be awarded against him by the final decree of this court or upon an appeal by an appellate court, then this

stipulation shall be void; otherwise to remain in full force and effect.

JAMES CARROLL. [SEAL.]
P. B. CORNWALL. [SEAL.]
R. W. DE LION. [SEAL.]

The foregoing stipulation and sureties thereon are approved.

GREENE, *Judge.*

10 TERRITORY OF WASHINGTON, } ss:
County of King, }

P. B. Cornwall, of the city of San Francisco, of State of California, party to the above stipulation, being duly sworn, doth depose and say that he resides in San Francisco, county of California, and that he is worth the sum of two hundred and fifty dollars over and above all his just debts and liabilities.

P. B. CORNWALL.

Sworn to before me this 30th day of January, 1886.

ROGER S. GREENE,
Chief Justice, &c.

TERRITORY OF WASHINGTON, } ss:
County of King, }

R. W. De Lion, of the city of Port Townsend, of Washington Territory, party to the above stipulation, being duly sworn, doth depose and say that he resides in Jefferson county, Washington Territory, and that he is worth the sum of two hundred and fifty dollars over and above all his just debts and liabilities.

R. W. DE LION.

Sworn to before me this 30th day of January, 1886.

ROGER S. GREENE,
Cheif Justice, &c.

TERRITORY OF WASHINGTON, } ss:
Third Judicial District, }

In the District Court, Holding Terms at Seattle, King County, Washington Territory.

UNITED STATES OF AMERICA *vs.* THE STEAMSHIP IDAHO, HER ENGINES, Boilers, Tackle, Apparel, and Furniture, Respondent; James Carroll, Claimant. } No. —. In Admiralty. Petition for Appointment of Appraisers.

To the Honorable Roger S. Greene, judge of the above-en-
11 titled district court:

The petition of James Carroll respectfully showeth that your petitioner is now master of the above-named steamship Idaho, mentioned in the libel herein, and as such master has possession and is

the lawful bailee thereof for the owners thereof, hereinafter mentioned; that the Pacific Coast Steamship Company, a corporation duly incorporated and organized under the laws of the State of California and authorized to do business in Washington Territory, is the sole owner of the said steamship Idaho, her engines, boilers, tackle, apparel, and furniture, which are now in custody of the collector of customs for the collection district of Puget sound, held under process issued in pursuance of the prayer of the libel herein.

Your petitioner therefore prays that said steamship Idaho, her engines, boilers, tackle, apparel, and furniture, may be appraised by appraisers to be appointed by this court; that your petitioner may be authorized to give bond to the United States of America, with good and sufficient sureties, according to the rules and practice of this court, for such appraised value, and that upon the execution of such bond the said steamship Idaho, her engines, boilers, tackle, apparel, and furniture, as aforesaid, may be released and delivered to this claimant; that your petitioner may have such other and further relief as may be just and proper in the premises and as this court should be pleased to grant; and your petitioner will ever pray.

JAMES CARROLL.

TERRITORY OF WASHINGTON, } ss:
County of King, }

James Carroll, being first duly sworn, on oath says that he is the same James Carroll mentioned in the foregoing petition for appraisement; that he is master of the steamship Idaho, mentioned in the libel herein, and that he has heard read the foregoing petition, knows the contents thereof, and believes the same to be true and just.

JAMES CARROLL.

Subscribed and sworn to before me this 29th day of January, 1886.

ROGER S. GREENE,
Notary Public for said County and Terr., Chief Justice, &c.

12 And on the back of the foregoing petition for appointment of appraisers are endorsed the words and figures following, to wit:

In the district court, third judicial district, holding terms at Seattle, Washington Territory. United States, plaintiff, *vs.* Steamship Idaho, &c., respondent; James Carroll, claimant. No. 4799. Filed 29 January, 1886. Greene, J. James Seavey, clerk, by James P. Ludlow, deputy. McNaught, Ferry, McNaught & Mitchell, attorneys for claimant.

In the District Court, Holding Terms at Seattle, King County, Territory of Washington.

THE UNITED STATES OF AMERICA
vs.
THE STEAMSHIP IDAHO, HER BOILERS, ENGINES, TACKLE, Apparel, and Furniture, Respondent; James Carroll, Claimant.

Now, on motion of McNaught, Ferry, McNaught and Mitchell, attorneys for claimant, for the appointment of three appraisers, in accordance with law, to appraise the steamship Idaho, her boilers, engines, tackle, apparel, and furniture, mentioned in the above-entitled suit, it is ordered by the court that F. J. Burns, F. E. Sander, and A. M. Gilman be, and hereby are, appointed appraisers herein, and are hereby directed to proceed, after having taken oath to discharge their duties according to law, to appraise said steamship Idaho, her boilers, engines, tackle, apparel, and furniture, in accordance with law, and make report of their proceedings herein to this court without delay; and the clerk of this court is
13 hereby ordered to give due notice to the above-named persons of their appointment herein.

Enter.

GREENE, *Judge.*

And on the back of the foregoing order appointing appraisers are endorsed the words and figures following, to wit:

In the district court of the third judicial district, holding terms at Seattle, Washington Territory. United States *vs.* Steamship Idaho. No. 4799. Order appointing appraisers. Filed Jan. 30, 1886. James Seavey, clerk, by James P. Ludlow, deputy. McNaught, Ferry, McNaught & Mitchell, attorneys for —.

In the District Court of the Third Judicial District of the Territory of Washington, Holding Terms at Seattle.

Journal K, p. 517, Jan. 30, 1886.

THE UNITED STATES OF AMERICA
vs.
THE STEAMSHIP IDAHO, HER BOILERS, Engines, Tackle, Apparel, and Furniture, Respondent; James Carroll, Claimant.
} Order Appointing Appraisers.

Now, on motion of McNaught, Ferry, McNaught and Mitchell, attorneys for claimant, for the appointment of three appraisers, in accordance with law, to appraise the steamship Idaho, her boilers, engines, tackle, apparel, and furniture, mentioned in the above-entitled suit, it is ordered by the court that T. J. Burns, F. E. Sander, and A. M. Gilman be, and hereby are, appointed
14 appraisers herein, and are hereby directed to proceed, after having taken oath to discharge their duties according to law,

to appraise said steamship Idaho, her boilers, engines, tackle, apparel, and furniture, in accordance with law, and make report of their proceedings herein to this court without delay; and the clerk of this court is hereby ordered to give due notice to the above-named persons of their appointment herein.

In the District Court, Holding Terms at Seattle, King County, Territory of Washington.

THE UNITED STATES OF AMERICA
vs.
THE STEAMSHIP IDAHO, HER BOILERS, ENGINES, TACKLE, Apparel, and Furniture, Respondent; James Carroll, Claimant.

We, the subscribers, having been duly appointed to appraise the steamship Idaho, her boilers, engines, tackle, apparel, and furniture, mentioned in the above-entitled suit, do severally solemnly swear that we will faithfully and fairly appraise the same, and make a true report of the value thereof, according to the best of our understanding, without unnecessary delay.

F. J. BURNS.
A. M. GILMAN.
FRED. E. SANDER.

Subscribed and sworn to this 29th day of January, 1886, before me—

ROGER S. GREENE,
Chief Justice, &c.

And on the back of the foregoing oath of appraisers are endorsed the words and figures following, to wit:

In the district court, third judicial district, holding terms at Seattle, Washington Territory. United States, plaintiff, *vs.* Steamship Idaho, &c., respondent; James Carroll, claimant. No. 15 4799. Oath of appraisers. Filed 29 January, 1886. Greene, judge. James Seavey, clerk, by James P. Ludlow, deputy. McNaught, Ferry, McNaught & Mitchell, attorneys for claimant.

In the District Court, Holding Terms at Seattle, King County, Territory of Washington.

UNITED STATES OF AMERICA
vs.
THE STEAMSHIP IDAHO, HER BOILERS, ENGINES, TACKLE, Apparel, and Furniture, Respondent; James Carroll, Claimant.

To the Hon. Roger S. Greene, judge of said court:

We, the undersigned, having been appointed and sworn as appraisers to appraise the value of the steamship Idaho, her boilers, engines, tackle, apparel, and furniture, do report that we have ex-

amined and appraised the same and do find that the same is worth as follows:

The steamship Idaho, her boilers, engines, tackle, apparel, and furniture, thirty thousand dollars ($30,000).

All of which is respectfully submitted.

Dated at Seattle this 29th day of January, 1886.

F. J. BURNES,
A. M. GILMAN,
F. E. SANDER,
Appraisers.

And on the back of the foregoing report of appraisers are endorsed the words and figures following, to wit:

In the district court, third judicial district, holding terms
16 at Seattle, Washington Territory. United States *vs.* Steamship Idaho, &c., respondent; James Carroll, claimant. No. 4799. Report of appraisers. Filed 29 January, 1886. Greene, J. James Seavey, clerk, by James P. Ludlow, deputy. McNaught, Ferry, McNaught & Mitchell, attorneys for claimant.

Journal K, p. 521, January 30, '86.

UNITED STATES OF AMERICA *vs.* THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, Tackle, Apparel, and Furniture, Respondent; James Carroll, Claimant.	In Admiralty. Bond for Release.

Know all men by these presents that we, James Carroll, as principal, and P. B. Cornwall and R. W. De Lion and Thomas T. Minor, as sureties, are held and firmly bound unto the United States of America in the sum of thirty thousand dollars, lawful money of the United States; for the payment of which, well and truly to be made, we bind ourselves, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 30th day of January, A. D. 1886.

The condition of the above obligation is such that whereas a libel of information was filed on the 28th day of January, A. D. 1886, by the United States of America against The Steamship Idaho, her engines, boilers, tackle, apparel, and furniture, for the reasons and causes in said libel mentioned; and whereas the said vessel, her engines, boilers, tackle, apparel, and furniture, are now in the custody of the collector of customs of the collection district of Puget sound, held awaiting such process as may be issued in pur-
17 suance of the prayer of said libel to the United States marshal if said prayer shall be granted; and whereas a claim to said vessel, her engines, boilers, tackle, apparel, and furniture, has been filed in this above-entitled cause in said district court above entitled by James Carroll, principal named in this obligation, master of said vessel, intervening thereby for the interest of

the Pacific Coast Steamship Company, a corporation duly organized and existing under the laws of the State of California and authorized to do business in Washington Territory, and the value thereof has been appraised at thirty thousand dollars, as appears from said appraisement now on file in said court:

Now, therefore, if in the event that the judgment of said court above entitled or that of any appellate court to which the same may be appealed passes against said claimant as to the whole or any part of said vessel, her engines, boilers, tackle, apparel, and furniture, the said bounden obligors shall pay into the said court or to the proper officer thereof within twenty days from the date of such judgment the amount of the value of said vessel, together with the costs of the above-entitled cause, or if the judgment of the court passes in favor of the said claimant, then this obligation to be void; otherwise to be and remain in full force and effect.

JAMES CARROLL. [SEAL.]
P. B. CORNWALL. [SEAL.]
R. W. DE LION. [SEAL.]

TERRITORY OF WASHINGTON, } ss:
County of King, }

P. B. Cornwall, surety named in the above obligation, being duly sworn, doth depose and say that he resides in the city of San Francisco, California; that he is worth the sum of thirty thousand dollars over and above all his just debts and liabilities.

P. B. CORNWALL.

Sworn to this 30th day of January, 1886, before me—

ROGER S. GREENE,
Chief Justice, &c.

18 TERRITORY OF WASHINGTON, } ss:
County of King, }

R. W. De Lion, surety named in the above obligation, being duly sworn, on oath deposes and says that he resides in Port Townsend, W. T.; that he is worth the sum of thirty thousand dollars over and above all his just debts and liabilities.

R. W. DE LION.

Sworn to this 30th day of January, 1886, before me—

ROGER S. GREENE,
Chief Justice, &c.

TERRITORY OF WASHINGTON, } ss:
County of King, }

Thomas T. Minor, surety named in the foregoing obligation, being duly sworn, doth depose and say that he resides in the city of Seattle, W. T.; that he is worth the sum of thirty thousand dollars over and above all his just debts and liabilities.

THOMAS T. MINOR.

Sworn to this 30th day of January, 1886, before me—
ROGER S. GREENE,
Chief Justice, &c.

The foregoing bond and the sureties thereon are hereby approved.

GREENE, *Judge.*

Filed Jan. 30, 1886.

JAMES SEAVEY, *Clerk,*
By JAMES P. LUDLOW, *Deputy.*

19 Journal K, p. 520, January 30, '86.

UNITED STATES OF AMERICA *vs.* THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, APPAREL, AND FURNITURE, RESPONDENT; JAMES CARROLL, CLAIMANT.	In Admiralty. Order of Approval of Bonds.

Now, on this 30th day of January, 1886, the bond of the claimant, James Carroll, for the payment of the appraised value of the steamship Idaho, her engines, boilers, tackle, apparel, and furniture, having been presented to the court, and the court being fully satisfied as to the sufficiency of the sureties upon said bond, and the said bond being in accordance with law, and the report of appraisers filed herein, and there being no objections thereto, it is here now ordered by the court that the said bond be, and hereby is, approved by the court, and the clerk is hereby ordered to make an entry upon the journal of this court of the aforesaid approval.

Journal K, p. 522, Jan. 30, 1886.

UNITED STATES OF AMERICA *vs.* STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, APPAREL, AND FURNITURE, RESPONDENT; JAMES CARROLL, CLAIMANT.	Order for Release of Vessel.

Now, on this 30th day of January, 1886, James Carroll, claimant herein, having heretofore this day caused a bond for the payment of the appraised value of said steamship Idaho, her boilers, engines, tackel, apparel, and furniture, to be lodged with the proper officer of the above-entitled court, and the sureties upon said bond having been approved by the court, by order of said court entered of record herein :

Now, therefore, it is hereby ordered by the court that the
20 said steamship Idaho, together with her boilers and engines, tackle and furniture, be delivered to the said claimant, said James Carroll, and the collector of customs for the collection dis-

trict of Puget sound, having now said steamship in his custody, is hereby now ordered and directed to deliver and turn over to the said James Carroll said steamship Idaho, her boilers and engines, tackle, apparel, and furniture; and it is further ordered that the same be, and hereby is, released from the further custody of this court.

Notice of Seizure.

TERRITORY OF WASHINGTON, *Third Judicial District,* } ss:

In the District Court, Holding Terms at Seattle.

THE UNITED STATES OF AMERICA *vs.* THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, APPAREL, AND FURNITURE. } No. 4799.

The President of the United States to all whom it may concern, Greeting:

Whereas William H. White, United States attorney for Washington Territory, by his assistant, C. H. Hanford, has filed a libel of information in the above-entitled district court, alleging in substance as follows:

"That at a time past, to wit, on the 29th day of January, 1886, at the port of Port Townsend, in the collection district of Puget sound, in Washington Territory, and on waters navigable from the sea by vessels of ten or more tons burden, H. F. Beecher, collector of customs for the collection district of Puget sound, did seize and now hath in his custody within the collection district aforesaid, in the third judicial district of Washington Territory and within the jurisdiction of this court, as being forfeited to the United States a certain vessel or steamship called the 'Idaho,' her engines, boilers, tackle, apparel, and furniture, of the value then and there of
21 seventy-five thousand dollars, for that at a time past, to wit, on the 21st day of December, A. D. 1885, at a place called Kaasan bay, in the Territory of Alaska and within the jurisdiction of this court, certain merchandise, to wit, three thousand eleven and one-half pounds of prepared opium, then and there of the value of $36,138.00, was fraudulently and with the knowledge and consent of James Carroll, who was then and there master of said vessel, and with the intent on the part of said master thereby to defraud the United States, brought into the United States, in and on board of said vessel, from a foreign port, to wit, the port of Victoria, in the province of British Columbia, and no part of said merchandise was included or described in the manifest of the cargo of said vessel. By reason whereof and by force of sections numbered 2806, 2807, 2809, and 3088 of the Revised Statutes of the United States the said master incurred penalty and became indebted to the United States in the sum of $108,414.00, and the said vessel has become and is now subject to a lien for said penalty."

And further alleging that "*that* at a time past, to wit, on the 29th day of January, 1886, at the port of Port Townsend, in the district aforesaid, and on waters navigable from the sea by vessels of ten or more tons burden, he, the said H. F. Beecher, collector of customs as aforesaid, did seize and now hath in his custody within the collection district aforesaid, in the third judicial district of Washington Territory and within the jurisdiction of this court, as being forfeited to the United States, a certain vessel or steamship called the 'Idaho,' her engines, boilers, tackle, apparel, and furniture, of the value then and there of seventy-five thousand dollars, for that at a time past, to wit, on the 14th day of January, 1886, at the port of Port Townsend aforesaid, certain merchandise, to wit, six hundred and twenty-seven and one-half pounds of prepared opium, then and there of the value of seven thousand five hundred and thirty dollars, was fraudulently and with the knowledge and consent of James Carroll, who was then and there the master of said vessel, and with the intent on the part of said master thereby to defraud the United States, brought into the United States, in and on board of said vessel, from a foreign port, to wit, the port of Victoria, in the province of British Columbia, and no part of said merchandise was included or described in the manifest of the cargo of said vessel, contrary to

for- of the statute in such case made and provided. By rea-
22 son whereof and by force of sections 2806, 2807, and 2809 and
3088 of the Revised Statutes of the United States the said master has incurred a penalty and become indebted to the United States in the sum of twenty-two thousand five hundred and ninety dollars (22,590.00), and the said vessel has become and is now subject to a lien for said penalty."

And further alleging that "*that* at a time past, to wit, on the 29th day of January, 1886, at the port of Port Townsend, in the collection district of Puget sound, in the Territory of Washington and on waters navigable from the sea by vessels of ten or more tons burden, H. F. Beecher, collector as aforesaid, did seize and now hath in his custody in the collection district aforesaid and within the third judicial district of Washington Territory and within the jurisdiction of this court a certain vessel or steamship called the 'Idaho,' her engines, boilers, tackle, apparel, and furniture, of the valu*r* then and there of seventy-five thousand dollars, to enforce a lien thereon in favor of the United States for certain penalties incurred by the master and mate of said vessel, for that at a time past, to wit, on the 21st day of December, A. D. 1885, at a place called Kaasan bay, in the Territory of Alaska and within the jurisdiction of this court, certain merchandise, to wit, three thousand and eleven and one-half pounds of prepared opium, then and there of the value of thirty-six thousand one hundred and thirty-eight dollars, was fraudulently, with the knowledge and consent of James Carroll, who was then and there the master of said vessel, and with the intent on the part of said master thereby to defraud the United States, brought into the United States and within the collection district of Alaska aforesaid in and on board of said vessel from a foreign port, to wit, the port of Victoria, in the province of British

Columbia, and after the arrival of said vessel laden with said merchandise within the limits of the collection district of Alaska aforesaid and before said vessel had come to a proper place in said district for the discharge of her cargo or any part thereof said merchandise was, at Kaasan bay, in the collection district of Alaska aforesaid, on the 21st day of December, 1885, fraudulently, with the knowledge and consent of the master and mate of said vessel and with the intent on the part of said master to defraud the United States, unlawfully, and clandestinely unladen and discharged
23 from said vessel without a permit or authority from any officer of the customs to unlade the same and without any necessity or reasonable cause by reason of unavoidable accident, necessity, or distress of weather, the said vessel being then and there bound to the United States from the port of Victoria aforesaid to the port of Sitka and other ports and places in the Territory of Alaska aforesaid, against the form of the statute in such case made and provided; by reason whereof and by force of sec. 2807 *and* of the Revised Statutes of the United States the said master and mate of said vessel have each respectively incurred a penalty and become indebted to the United States in the sum of one thousand dollars, and the said vessel has become and is now subject to a lien for said penalty."

And further alleging "that at a time past, to wit, on the 29th day of January, 1886, at the port of Port Townsend, in the collection district of Puget sound, in the Territory of Washington, and on waters navigable from the sea by vessels of ten or more tons burden, H. F. Beecher, collector as aforesaid, did seize and now hath in his custody, in the collection district aforesaid, within the third judicial district of Washington Territory and within the jurisdiction of this court, a certain vessel or steamer called the 'Idaho,' her engines, tackle, boilers, apparel, and furniture, of the value then and there of seventy-five thousand dollars, as being forfeited to the United States; for that at a time past, to wit, on the 21st day of December, 1885, at a place called Kaasan bay, in the Territory of Alaska and within the jurisdiction of this court, certain merchandise, to wit, 3,011 and ½ pounds of prepared opium, of the value then and there of $36,138.00, were fraudulently, with the knowledge and consent of James Carroll, who was then and there the master of said vessel, and with intent on the part of said master thereby to defraud the United States, brought into the United States in and on board of said vessel from a foreign port, to wit, the port of Victoria, in the province of British Columbia, and unladen from said vessel in the night-time without a permit or license to unlade the same from the collector or any naval officer or other officer of the customs and without any permit or license whatever for such unlading, contrary to the statute in such case made
24 and provided; by reason whereof and by force of secs. 2871, 2872, 2873, and 2874 of the Revised Statutes of the United States the said vessel, her engines, boilers, tackle, apparel, and furniture, have become and are forfeited to the United States.

"Wherefore the said United States attorney prays the advisement

of the court here in the premises and for a monition and other proper process, to the end that said vessel or steamship and her engines, boilers, tackle, apparel, and furniture may be decreed to be and remain forfeited accordingly."

And whereas on reading and filing said libel of information the court made the following order thereon, to wit:

THE UNITED STATES OF AMERICA *vs.* THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, APPAREL, AND FURNITURE.	No. 4799. Order for Hearing.

"Let this cause be set down for hearing on the 27th day of February, 1886, at the hour of 10 o'clock a. m., at which time all persons having or claiming any interest in said vessel, her engines, boilers, tackle, apparel, and furniture, must appear and make their allegations in that behalf or their default will be entered, and let notice be given in the usual form by publication thereof in the Puget Sound Weekly Argus."

Now, therefore, all persons having or claiming any interest in said vessel, her engines, boilers, tackle, apparel, and furniture, are notified to be and appear in open court, at the time specified in said order, and make their allegations in that behalf or their default will be entered and the prayer of said libel granted.

Witness the Hon. Roger S. Greene, judge of said district court, and the seal of said court this 30 day of January, A. D. 1886.

[SEAL.] JAMES SEAVEY, *Clerk*,
By JAMES P. LUDLOW, *Deputy*.
WILLIAM H. WHITE,
United States Attorney for Washington Territory.
C. H. HANFORD,
Assistant U. S. Attorney.

25 And on the back of the foregoing notice of seizure are endorsed the words and figures following, to wit:

In the district court of the third judicial district, holding terms at Seattle. The United States, plaintiff, *vs.* The Steamship "Idaho," defendant. No. 4799. Notice of seizure. Filed this 3rd day of March, A. D. 1886. James Seavey, clerk, by James P. Ludlow, deputy clerk. C. H. Hanford, assistant United States attorney.

I hereby certify that I personally caused to be published a true copy of the within "notice" in the Weekly Argus, published in Port Townsend, Jefferson Co., W. T., on the 20th day of January, 1886, and for two weeks following, as will more fully appear by the affidavit of publication annexed hereto*to* and made a part of this return; and I further certify that I caused to be posted in conspicuous plases in Port Townsend, W. T., three copies of said notice.

THOMAS J. HAMILTON,
United States Marshal for Washington Territory,
By CHARLES HENRY, *Deputy.*

Marshal's Fees.

Notice to publishers, 20 folios, at 10 cts..... $2 00
Publishers' fees, printing notice (3 copies)..... 1 50

26 TERRITORY OF WASHINGTON, } ss:
County of Jefferson, Third Judicial District, }

In the District Court of the Third Judicial District of Washington Territory.

In the Matter of—

THE UNITED STATES
vs.
THE STEAMSHIP "IDAHO." } Notice of Seizure.

Allen Weir, being first duly sworn, on oath says that he is publisher of the Weekly Argus, which is a weekly newspaper, and which before and at the times hereinafter mentioned and included was published in the city of Port Townsend, in the county of Jefferson and the Territory of Washington, at least once a week as a weekly newspaper, and was during all of said time of general circulation in the third judicial district, and that the notice of seizure, of which a printed copy is hereto attached, was published and advertised in full in said newspaper by printing and publishing in said newspaper and in every successive issue thereof for two successive weeks a printed copy of said notice, which copy was always a precise counterpart and fac-simile of the printed copy attached hereto, and that the date of the first publication as aforesaid of said notice was on the 3rd day of February, 1886, and the date of the last publication as aforesaid thereof was on the 11th day of February, 1886.

ALLEN WEIR.

Sworn to and subscribed before me this 12th day of February, 1886.

A. L. TULE,
Notary Public in and for Jefferson County and Washington Territory.

Printer's charges $30 00

Charge legal rates for one insertion, 20 squares, at $1.50 per square.

27 *Notice of Seizure.*

THE UNITED STATES OF AMERICA
vs.
THE STEAMSHIP "IDAHO," HER ENGINES, BOILERS, TACKLE, APPAREL, AND FURNITURE. } No. 4799.

The President of the United States to all whom it may concern, Greeting:

Whereas William H. White, United States attorney for Washington Territory, by his assistant, C. H. Hanford, has filed a libel of

information in the above-entitled district court alleging in substance as follows:

"That at a time past, to wit, on the 29th day of January, 1886, at the port of Port Townsend, in the collection district of Puget sound, in Washington Territory, and on waters navigable from the sea by vessels of ten or more tons burden, H. F. Beecher, collector of customs for the collection district of Puget sound, did seize and now hath in his custody, within the collection district aforesaid *aforesaid*, in the third judicial district of Washington Territory and within the jurisdiction of this court, as being forfeited to the United States, a certain vessel or steamship called the 'Idaho,' her engines, boilers, tackle, apparel, and furniture, of the value then and there of seventy-five thousand dollars; for that — a time past, to wit, on the 21st day of December, A. D. 1885, at a place called Kaasan bay, in the Territory of Alaska and within the jurisdiction of this court, certain merchandise, to wit, three thousand and eleven and one-half pounds of prepared opium, then and there of the value of $36,138, was fraudulently and with the knowledge and consent of James Carroll, who was then and there master of said vessel, and with the intent on the part of said master thereby to defraud the United States, — in and on board of said vessel from a foreign port, to wit, the port of Victoria, in the province of British Columbia, and no part of said merchandise was included or
28 described in the manifest of the cargo of said vessel: by reason whereof and by force of sections numbered 2806, 2807, 2809, and 3088 of the Revised Statutes of the United States the said master incurred a penalty and became indebted to the United States in the sum of $108,414, and the said vessel has become and is now subject to a lien for said penalty."

And further alleging "that at a time past, to wit, on the 29th day of January, 1886, at the port of Port Townsend, in the district aforesaid, and on waters navigable from the sea by vessels of ten or more tons burden, he, the said H. F. Beecher, collector of customs as aforesaid, did seize and now hath in his custody, within the collection district aforesaid, in the third judicial district of Washington Territory and within the jurisdiction of this court, as being forfeited to the United States, a certain vessel or steamship called the 'Idaho,' her engines, boilers, tackle, apparel, and furniture, of the value then and there of seventy-five thousand dollars; for that at a time past, to wit, on the 14th dau of January, 1886, at the port of Port Townsend aforesaid, certain merchandise, to wit, six hundred and twenty-seven and one-half pounds of prepared opium, then and there of the value of seven thousand five hundred and thirty dollars, was fraudulently and with the knowledge and consent of James Carroll, who was then and there the master of said vessel, and with the intent on the part of said master thereby to defraud the United States, brought into the United States in and on board of said vessel from a foreign port, to wit, the port of Victoria, in the province of British Columbia, and no part of said merchandise was included or described in the manifest of the cargo of said vessel, contrary to the form of the statute in such case made

and provided; by reason whereof and by force of sections 2806, 2807, 2809, and 3088 of the Revised Statutes of the United States the said master has incurred a penalty and become indebted to the United States in the sum of twenty-two thousand five hundred and ninety dollars ($22,590), and the said vessel has become and is now subject to a lien for said penalty."

And further alleging "that at a time past, to wit, on the 29th day of January, 1886, at the port of Port Townsend, in the collection district of Puget sound, in the Territory of Washington, and on waters navigable from the sea by vessels of ten or more
29 tons burden, H. F. Beecher, collector as aforesaid, did seize and now hath in his custody, in the collection district aforesaid and within the third judicial district of Washington Territory and within the jurisdiction of this court, a certain vessel or steamship called the 'Idaho,' her engines, boilers, tackle, apparel, and furniture, of the value then and there of seventy-five thousand dollars, to enforce a lien thereon in favor of the United States for certain penalties incurred by the master and mate of said vessel; for that at a time past, to wit, on the 21st day of December, A. D. 1885, at a place called Kaasan bay, in the Territory of Alaska and within the jurisdiction of this court, certain merchandise, to wit, three thousand and eleven and one-half pounds of prepared opium, then and there of the value of thirty-six thousand one hundred and thirty-eight dollars, was fraudulently, with the knowledge and consent of James Carroll, who was then and there the master of said vessel, and with the intent on the part of said master thereby to defraud the United States, brought into the United States and within the collection district of Alaska aforesaid in and on board of said vessel from a foreign port, to wit, the port of Victoria, in the province of British Columbia, and after the arrival of said vessel laden with said merchandise within the collection district of Alaska aforesaid, and before said vessel had come to a proper place in said district for the discharge of her cargo or any part thereof, said merchandise was, at Kaasan bay, in the collection district of Alaska aforesaid, on the 21st day of December, 1885, fraudulently, with the knowledge and consent of the master and mate of said vessel and with the intent on the part of said master to defraud the United States, unlawfully and clandestinely unladen and discharged from said vessel without a permit or authority from any officer of the customs to unlade the same, and without and necessity or reason of cause by reason of unavoidable accident, necessity, or distress of weather, the said vessel being then and there bound to the United States from the port of Victoria aforesaid to the port of Sitka and other ports and places in the Territory of Alaska aforesaid, against the form of the statute in such case made and provided; by reason whereof and by force of section 2867 of the Revised Statutes of the United States the said master and mate of said vessel have each respectively incurred a penalty and become indebted to the United States in the sum of one thousand dollars, and the
30 said vessel has become and is now subject to a lien for said penalty."

And further alleging that at a time past, to wit, on the 29th day of January, 1886, at the port of Port Townsend, in the collection district of Puget sound, in the Territory of Washington, and on waters navigable from the sea by vessels of ten or more tons burden, H. F. Beecher, collector aforesaid, did seize and now hath in his custody, in the collection district of Washington and within the jurisdiction of this court, a certain vessel or steamship called the "Idaho," her engines, boilers, tackle, apparel, and furniture, of the value then and there of seventy-five thousand dollars, as being forfeited to the United States; for that at a time past, to wit, on the 21st day of December, 1885, at a place called Kaasan bay, in the Territory of Alaska and within the jurisdiction of this court, certain merchandise, to wit, 3,011½ pounds of prepared opium, of the value then and there of $36,138, were fraudulently, with the knowledge and consent of James Carroll, who was then and there the master of said vessel, and with intent on the part of said master to defraud the United States, brought into the United States in and on board of said vessel from a foreign port, to wit, the port of Victoria, in the province of British Columbia, and unladen from said vessel in the night, without a permit or license to unlade the same from the collector or any naval officer or other officer of the customs and without any permit or license whatever for such lading, contrary to the statute in such case made and provided, by reason whereof and by force of sections 2871, 2872, 2873, and 2874 of the Revised Statutes of the United States the said vessel, her engines, boilers, tackle, apparel, and furniture, have become and are forfeited to the United States.

Wherefore the said United States attorney prays advisement of the court here in the premises and for a monition and other proper process, to the end that the said vessel or steamship and her engines, boilers, tackle, apparel, and furniture, may be decreed to be and remain forfeited accordingly.

And whereas on reading and filing said libel of information the court made the following order thereon, to wit:

31 THE UNITED STATES OF AMERICA
vs. No. 4799.
THE STEAMER "IDAHO," HER ENGINES, BOILERS, TACKLE, APPAREL, AND FURNITURE. Order for Hearing.

Let this cause be set down for hearing on the 27th day of February, 1886, at the hour of 10 o'clock a. m., at which time all persons having or claiming any interest in said vessel, her engines, boilers, tackle, apparel, and furniture, must appear and make their allegations in that behalf or their default will be entered; and let notice be given in the usual form by publication thereof in the Puget Sound Weekly Argus.

Now, therefore, all persons having or claiming any interest in said vessel, her engines, boilers, tackle, apparel, and furniture, are notified to be and appear in open court at the time specified in said order and make their allegations in that behalf or their default will be entered and the prayer of said libel granted.

Witness the Hon. Roger S. Greene, judge of the district court, and the seal of said court this 30 day of January, A. D. 1886.

WILLIAM H. WHITE,
U. S. Attorney for Washington Territory.
C. H. HANFORD,
Ass't U. S. Attorney.
JAMES SEAVEY, *Clerk,*
By JAMES P. LUDLOW, *Deputy.*

32 And on the back of the foregoing return of summons are endorsed the words and figures following, to wit:

Return of summons. No. 4799. Filed Mar. 3rd, 1886. James Seavey, clerk, by James P. Ludlow, deputy clerk.

In the District Court, Holding Terms at Seattle, in the County of King, Washington Territory.

THE UNITED STATES OF AMERICA
vs.
THE STEAMSHIP IDAHO, HER BOILERS, ENGINES, TACKLE, Apparel, and Furniture, Respondent; James Carroll, Claimant.

It is here and now stipulated by and between attorney for the United States of America and for Washington Territory and McNaught, Ferry, McNaught & Mitchell, attorneys for the said steamship Idaho, respondent, and for James Carroll, claimant, that the day of hearing in the above-entitled cause, so far as the same effects or applies to any of the parties now of record and above named in this cause, be postponed until Wednesday, the 3rd day of March, at 10 o'clock a. m., 1886; and it is further stipulated that the time for the filing and serving of claimant's answer herein be, and hereby is, extended to the said 3rd day of March, 1886.

WILLIAM H. WHITE,
U. S. Attorney,
By C. H. HANFORD, *Assistant.*

McNAUGHT, FERRY, McNAUGHT &
MITCHELL, *Proctors for Claimant.*

33 And on the back of the foregoing stipulation are endorsed the words and figures following, to wit:

In the district court, third judicial district, holding terms at Seattle, Washington Territory. U. S. of America, plaintiff, *vs.* Steamship Idaho, &c., respondent; James Carroll, claimant. No. 4799. Stipulation. Filed Feb. 27, 1886. James Seavey, clerk, by James P. Ludlow, deputy. McNaught, Ferry, McNaught & Mitchell, attorneys for claimant.

Journal K, p. 568, March 1st, 1886.

THE UNITED STATES OF AMERICA
vs.
THE STEAMER IDAHO, HER BOILERS, Engines, Tackle, Apparel, and Furniture, Respondent; James Carroll, Claimant.
} Order Postponing Hearing.

Now, upon the stipulation of the attorneys respectively representing the United States of America and the said steamship and claimant, on file herein, the day of hearing in this cause is hereby postponed from Saturday, February 27th, 1886, to Wednesday, March 3rd, 1886, at 10 o'clock a. m., and that the time for the filing and serving of claimant's answer herein be, and hereby is, extended to the said 3rd day of March, 1886, in accordance with the terms of said stipulation.

Dated Seattle, February 27, 1886.

34 Territory of Washington, Third Judicial District, in the District Court, Holding Terms at Seattle, *ss:*

UNITED STATES OF AMERICA
vs.
STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, APPAREL, AND FURNITURE.
} Answer to Information.

The answer of the Pacific Coast Steamship Company, owner and claimant of the said steamship Idaho, her engines, boilers, tackle, apparel, and furniture, whereof James Carroll was master and claimant, to the information filed herein in behalf of the United States.

And now comes the said owner and claimant as aforesaid and for answer to the said information against the said steamship Idaho, her engines, boilers, tackle, apparel, and furniture, says:

I.

He denies that the 3,011½ pounds of opium mentioned in the first count of said libel of information was fraudulently or with the knowledge or consent of James Carroll or with the intent of said James Carroll thereby to defraud the United States brought into the United States in or on board of said vessel from a foreign port, to wit, the port of Victoria, in the province of British Columbia, and denies that said opium or any part thereof, with or without the knowledge or consent of said James Carroll, was brought into the United States on board of said vessel or in said vessel from British Columbia or any other foreign country; denies that by reason of any act of said James Carroll, as master of said steamship or otherwise, or of any of the officers of said steamship, the said master incurred a penalty or became indebted to the United States in the sum of $108,414.09 or any part thereof for or on ac-

count of any act or acts relating to or connected with said opium, and denies that the said vessel has become or is now subject to a lien from said penalty of $108,414 or any part thereof, and denies that said vessel or any part thereof became forfeited in the manner and form as in said information in that behalf alleged.

II.

The said owner and claimant, further answering the second
35 count in said libel *in said libel* of information, denies that the 627½ pounds of prepared opium found on board of said steamship at the times in said count mentioned was fraudulently or with the knowledge or consent of James Carroll, the master of said vessel, or with intent on the part of said master thereby to defraud the United States brought into the United States in or on board of said vessel from a foreign port or from the port of Victoria, in the province of British Columbia; admits that no part of said merchandise was included or described in the manifest of the cargo of said vessel, but avers that the said opium was on board of said vessel without the knowledge or consent of the said James Carroll, the master of said steamship, and without the knowledge or consent of any of the owners or agents thereof, and denies that by reason of any and all of the matters and things in said count averred or by force of sections 2806, 2807, 2809, and 3088 of the Revised Statutes of the United States the said master has incurred a penalty or become indebted to the United States in the sum of $22,590.09 or any other sum, and denies that said vessel has become and is now subject to a lien for said penalty or any part thereof; and further denies that said vessel, by reason of said facts as averred or any part thereof, has become forfeited in manner and form as in said information in that behalf alleged.

III.

And said owner and claimant, further answering, in answer to the matters and things set forth in the third count of said libel of information denies that the 3,011½ pounds of prepared opium was fraudulently or with the knowledge or consent of James Carroll or with the intent on the part of said James Carroll thereby to defraud the United States brought into the United States on board of said vessel or in said vessel from the port of Victoria, in British Columbia, or other foreign port, and denies that said opium or any part thereof, in the 2nd district of Alaska aforesaid or other place, before the said vessel had *be*come to a proper place in said district for the discharge of her cargo, was discharged from said steamship, and denies that on the 21st day of December, 1885, fraudulently or with the knowledge or consent of said master or the mate of said vessel, or both, with the intent on the part of the said master to defraud the United States, said opium was un-
36 lawfully — clandestinely unladen or discharged from said vessel without a permit or authority from any officer of the customs to discharge the same, and denies that the same was dis-

charged without any necessity or reasonable cause for the discharge thereof; denies each and every averment of fraud, knowledge, or intent averred in said count, and denies that the said opium was on board of said steamship Idaho with the knowledge or consent of the said James Carroll, master of said steamship, or any officer or agent of the said Pacific Coast Steamship Company, and denies that said opium was, with or without the knowledge of the said master, taken on board said ship at said Victoria, in British Columbia, and by said ship taken to any port or place within the United States, and denies that by reason of any acts of the said master or of any officers or agents of the said Pacific Coast Steamship Company the said vessel has incurred a penalty and became indebted to the United States in the sum of $1,000 or any sum whatever, and denies that the said vessel has become and is now subject to a lien for said penalty or any part thereof.

IV.

And the said owner and claimant, further answering, in answer to the 4th count in said libel of information denies that on the 21st day of December, 1885, or at any other time, at a place called Kaasan bay, in the Territory of Alaska, in the jurisdiction of this court, as merchandise, 3,011½ pounds of prepared opium, of the value then and there of $36,138, or any sum whatever, was fraudulently or with the knowledge or consent of James Carroll, the master of the steamship Idaho, or with intent on the part of the said master thereby to defraud the United States, brought into the United States in or upon the said vessel from any foreign port or the port of Victoria, in British Columbia, and denies that said opium or any part thereof was at Kaasan bay, on the 21st day of December, 1885, or at any other time, in the night-time unladen; and said owner and claimant further denies that the said ship at the said time did not have a permit or license for unloading its freight at said time in the night-time; and said owner and claimant further denies that by reason thereof or by reason of any of the matters or things in said information aver-ed or by reason of sections 2871, 2872, 2873, and 2874 of the Revised Statutes of the United States or of any other section the said vessel, her engines,
boilers, tackle, apparel, and furniture, or any part thereof,
37 have become or are for*for*feited to the United States.

And said owner and claimant, further answering, says that the said steamship Idaho, her engines, boilers, tackle, apparel, and furniture, in said information mentioned, did not nor did any part thereof become forfeited in the manner and form as in the said information in that behalf alleged.

Wherefore the said owner and claimant pray that said information may be dismissed with costs in this behalf to be taxed.

PACIFIC COAST STEAMSHIP COMPANY,
By JAMES CARROLL, *Master of S. S. "Idaho."*

Subscribed and sworn to before me by James Carroll, at Seattle, King county, Washington Territory, this 3rd day of March, A. D. 1886.

JOSEPH F. McNAUGHT,
Notary Public.

In answer to the interrogatories in said cause propounded, James Carroll, claimant and master of the steamship Idaho, says:

I.

In answer to the first interrogatory: The steamship did make a voyage from Portland, Oregon, by way of Victoria, B. C., to Sitka, in Alaska, and return to Port Townsend and Portland via Victoria, B. C., in the month of December, A. D. 1885.

II.

In answer to the second interrogatory, James Carroll says that he was master of said vessel on said voyage.

III.

In answer to the 3rd, said James Carroll says that said vessel did stop at a place called Kaasan bay or Carter's bay, in Alaska Territory, on said voyage, both going to and returning from Sitka; that both of said stops were in the night-time, the first for the time of about one half hour, the second about two hours.

IV.

Answering to the 4th interrogatory, said James Carroll says that he cannot give a minute description of all the articles and packages landed from said vessel at said place during said voyage; that said Carroll, further answering, says that he cannot give said detailed description, for that the ship's manifest going to Alaska was
38 left with the collector of customs at Sitka on said voyage.

V.

And in answering the 5th interrogatory said James Carroll says that on their return trip from Sitka, in December, 1885, there was landed at Kaasan bay (14) fourteen barrels, and that said barrels were taken on board of said steamship Idaho on her downward voyage at a place called Juneau, and *at* the place- where said barrels were taken on board and where they were landed are within the United States, and that the said steamship Idaho after taking said barrels on board was not out of the United States until the landing at Kaasan bay.

JAMES CARROLL.

Subscribed and sworn to before me this 3rd day of March, A. D. 1886, by James Carroll, at Seattle, King county, Washington Territory.

JOSEPH F. McNAUGHT,
Notary Public.

And on the back of the foregoing answer is *the* endorsed the words and figures following, to wit:

In the district court of the third judicial district, holding terms at Seattle, Washington Territory. U. S. of America, plaintiff, *vs.* Steamship Idaho, etc., respondent; Jas. Carroll, claimant. No. 4799. Received true copy of the within answer this 3rd day of March, 1886. C. H. Hanford, attorney for libellant. Answer filed March 3rd, 1886. James Seavey, clerk, by James P. Ludlow, deputy clerk.

39 Journal K, p. 588, March 4th, 1886.

UNITED STATES OF AMERICA
vs.
STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, APPAREL, AND FURNITURE. } Default.

And now, on this 3rd day of March, 1886, in open court, proclamation being made for all persons having or claiming any interest in the steamship Idaho, her engines, boilers, tackle, apparel, and furniture, to now appear and make their allegations in that behalf, and no appearance being made or claim interposed save and except by James Carroll, master of said vessel, in behalf of the Pacific Coast Steamship Company, the owner of said vessel—

Now, therefore, on motion of C. H. Hanford, assistant United States attorney, it is ordered and adjudged that the default of all persons save and except the said James Carroll and the said Pacific Coast Steamship Company be now entered herein.

In the District Court, Holding Terms at Seattle.

UNITED STATES OF AMERICA
vs.
STEAMSHIP IDAHO, &*co.*; JAMES CARROLL, Claimant. } No. 4799. Motion for Continuance.

Comes now the libellant and, upon the affidavits of William H. White, W. M. Harned, and C. H. Hanford, on file herein, moves the court that this cause be continued for trial until such time as the court may fix upon to suit the convenience of the parties, witnesses, and United States officers.

WILLIAM H. WHITE,
C. H. HANFORD,
Proctors for Libellant.

Copy received March 29th, 1886.

McNAUGHT & CO.,
Att'ys for Claimant.

40 On the back of the foregoing affidavit is endorsed the words and figures following, to wit:

The United States *vs.* Steamship Idaho, etc. *M.* Motion for continuance. Filed March 29th, 1886. James Seavey, clerk.

TERRITORY OF WASHINGTON, } ss:
Third Judicial District, }

In the District Court, Holding Terms at Seattle.

UNITED STATES OF AMERICA
vs.
STEAMSHIP IDAHO; JAMES CARROLL, Claimant. } No. —. Affidavit for Continuance.

TERRITORY OF WASHINGTON, } ss:
County of Jefferson, }

I, C. H. Hanford, being first duly sworn, depose and say that I am assistant United States attorney for Washington Territory and of counsel for the United States in this cause; that H. F. Beecher, collector of customs for the collection district of Puget sound, and E. A. Gardner, inspector of customs for said district, are each material and necessary witnesses for the United States upon the trial of this cause, and said witnesses are now absent and beyond the jurisdiction of this court, and neither of said witnesses can be produced to testify upon the trial of this cause unless the trial be postponed a reasonable time; that the present whereabouts of said witnesses and each of them are to me unknown, and I do not know when they or either of them can be produced to testify in this cause; that said H. F. Beecher left this Territory about the latter part of the month of January, 1886, and before the seizure of the steamship Idaho and before this cause was commenced, and he
41 has remained absent from the Territory continuously ever since his said departure; that at the time this cause was set for trial, to wit, on or about the 2nd day of March, 1886, affiant was informed and believed, and now believes, that said Beecher was then in the city of Washington, D. C.; that at the time last mentioned E. A. Gardner was at Seattle, in this judicial district, and affiant then informed said Gardner that this cause had been set for trial at Port Townsend on this 29th day of March, 1886, and that it would be necessary for all witnesses for the United States in said cause to be here present at this time, and I also at the same time explained to said Gardner that this time had been agreed upon by the respective parties and the court for the trial of the cause for the purpose of enabling said Beecher to be present at the trial and for the reason that no other time within the next six months could be fixed upon without causing inconvenience and injustice to one party or the other or interfering with other important proceedings in the court, and I then also informed said Gardner that it was my purpose to send a subpœna to Washington city, to be there served upon said Beecher, so as to insure his attendance upon the trial of this cause, and I also at the same time requested said Gardner to communicate with said Beecher by telegraph at once and inform him that the case had been set for trial at this time, and I also at the same time requested said Gardner to furnish me a list of the witnesses to be subpœnaed for the United States herein, which he then promised to do, at the same time stating that

the most important witnesses were out of the jurisdiction and that he believed they were in British Columbia; that in one or two days after said conversation said Gardner informed me that he had received information from said Beecher to the effect that he, the said Beecher, would start from Washington city to return to Port Townsend in about one week or ten days from that time; that in consequence of said information I believed that said Beecher would return to Port Townsend so as to be present in court at this time and that I would not send a subpœna to Washington in time to reach there before his departure, and that for that reason I did not send a subpœna to be served upon said Beecher; that I do not know the cause of the detention of said Beecher or when he will return to Port Townsend; that said Gardner has not furnished me with a list of the witnesses for the United States in this cause,
42 and I do not know who the witnesses are nor where they can be found, and I do not know the particular facts — to *which either* said Beecher, as collector of customs, personally made a seizure of fourteen barrels containing 3,011½ pounds of prepared opium upon premises alleged to be under the control of James Carroll, the master of the steamship Idaho, and claimant in this cause, at a place called Kaasan bay, in the Territory of Alaska, and I know of no witness, other than said Beecher, by whom the particular facts and circumstances connected with said seizure or a full and complete statement of all the facts which led to said seizure can be proved; that said opium so seized is the same opium referred to in the libel herein and which is alleged was unlawfully transported in the steamship Idaho from British Columbia to Kaasan bay aforesaid and there unlawfully unladen from said vessel; that said Gardner is the officer who personally made the seizure of the steamship Idaho herein, and he has been for a long time previous to said seizure employed in the customs service as a detective and in his capacity as such detective has collected the principal part of the facts and information upon which the prosecution depends in this cause, and I know of no other witness by whom the same facts can be proved, and I believe that the rights of the Government herein will be sacrificed if the trial of this cause shall be proceeded with in the absence of said Beecher and said Gardner; that I did not know of the departure or absence of said Gardner until the 22nd day of March, 1886, and I do not now know the cause of his departure or when he will return.

——.

Subscribed and sworn to before me this 29th day of March, 1886.

JAMES SEAVEY, *Clerk.*

And on the back of the foregoing affidavit are endorsed the words and figures following, to wit:

United States *vs.* Steamship Idaho. Affidavit of C. H. Hanford. Filed March 29th, 1886. James Seavey, clerk.

43 In the District Court of the Third Judicial District of Washington Territory, Holding Terms at Seattle.

THE UNITED STATES OF AMERICA
vs.
THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, APPAREL, AND FURNITURE.

TERRITORY OF WASHINGTON, *County of Jefferson,* } *ss:*

W. H. White on oath says that he is U. S. attorney for Washington Territory, and—

First. That Herbert Foot Beecher, the witness hereinafter named, resides at Port Townsend, Washington Territory, and is collector of customs for Washington Territory and the collection district of Puget sound.

Second. That a few days prior to the filing of the libel in this action said Beecher departed for Washington city at the request of his superior officer, to wit, the President of the United States, as this affiant is informed and believes, with the intention of returning to Port Townsend on or prior to the 15th day of March, A. D. 1886; that said Beecher went to Washington city on official business connected with his office, as affiant is informed and believes, and that said Beecher is yet absent on such business; that affiant, when this cause was set down for trial for the 29th day of March, A. D. 1886, consented to said case being set for trial at that time because from all information then possessed by him he believed that said Beecher would be here on the 29th day of March, 1886, to testify to this cause; that affiant cannot go to trial in this cause without the testimony of said Beecher; that on the 25th day of March, 1886, the affiant learned for the first time that said Beecher had not yet left Washington city.

That said Beecher is an important and material witness in this, that said Beecher is the only person by whom affiant can prove the seizure and custody of the opium mentioned in the first
44 count, in the third count, and in the 4th count of said libel at Kaasan bay, Alaska; that affiant can prove by said Beecher and no one else the fact of said seizure, that the article seized was opium, the place of seizure, the marks on the goods seized at the time of seizure, and other facts leading to said seizure.

Affiant says further that E. A. Gardner resides at Seattle, Washington Territory; that he was at the time of bringing this action, for a long time prior thereto, and is no- an inspector of customs of said collection district; that said E. A. Gardner and A. H. Wintrode are now absent at San Francisco on official business connected with their office as inspector of customs, at the command of their superior officer, to wit, William M. Harned, now in charge of the collection district of Puget sound; that affiant had no knowledge that said Gardner or said Wintrode would be absent at the time he agreed to have this case set for trial on the 29th day of March, 1886; that affiant was not informed and did not know of the absence of said

Gardner and said Wintrode until March 22nd, 1886; that said Wintrode was at the time of bringing this suit and for a long time prior and now is an inspector of customs for said district; that affiant can prove by said Gardner and said Wintrode and no other persons that all the opium mentioned in the libel was manufactured and prepared in Victoria, British Columbia, and was packed in barrels and put on board the steamship Idaho as freight at said Victoria a short time before its seizure by said Beecher, and that said steamer left Victoria with said opium on board as part of the cargo for Alaska, where said opium was afterwards seized.

That affiant is informed of the nature of the business upon which said Gardner and said Wintrode are absent, but affiant says that it is of such a nature that it would not be for the interest of the public service to set out the same in this affidavit, but that affiant is willing to communicate to the judge, but to no one else, the nature of said public business.

Affiant further says that said Wintrode and said Gardner left Port Townsend on said business on the 9th of March, 1886, with the intention of returning on the 25th of said month; that said business, owing to unavoidable*y* circumstances, has not been completed by them; that said business was of such a nature that no other officer except said Gardner and Wintrode could be entrusted with the same; that said Gardner and said Wintrode are material witnesses in this action; that said Gardner and said Wintrode will return to Port Townsend immediately upon completion of their business; that from information affiant says that the time of their return will be on or about the 10th day of April, 1886, but not before that time.

W. H. WHITE.

Subscribed and sworn to before me this 29th day of March, A. D. 1886.

JAMES SEAVEY, *Clerk.*

On the back of the foregoing affidavit is endorsed the words and figures following, to wit:

United States *vs.* Steamship Idaho, etc. No. 4799. Affidavit of W. H. White. Filed March 29th, 1886. James Seavey, clerk.

In the District Court of the Third Judicial District of Washington Territory, Holding Terms at Seattle.

THE UNITED STATES OF AMERICA
vs.
THE STEAMSHIP IDAHO.

TERRITORY OF WASHINGTON,
County of Jefferson.

Wm. M. Harned, being duly sworn, on oath says that he is deputy collector of customs for Puget Sound district and now in charge of said office.

46 That on the 9th day of March, 1886, he sent E. A. Gardner and A. H. Wintrode, inspectors of said collection district, to San Francisco on business connected with said office, with directions to return on or before the 25th day of March, 1886, or on completion of their business, they expecting to complete said business so as to return by said 25th of March; that he has received word by telegram that they had not completed their business and could not possibly return before the 10th day of April, 1886. Affiant says that he has communicated the matter of said public business to W. H. White, U. S. att'y for Washington Territory, and that it is of such a nature that he believes it would not be for the interest of the public service to disclose said business.

W. M. HARNED.

Subscribed and sworn to before me this 29th day of March, 1886.
JAMES SEAVEY, *Clerk.*

On the back of the foregoing affidavit is endorsed the words and figures following, to wit:
United States *vs.* Steamship Idaho, etc. No. 4799. Affidavit of Wm. M. Harned. Filed March 29th, 1886. James Seavey, clerk.

47 In the District Court, Holding Terms at Seattle, King County, Washington Territory.

UNITED STATES OF AMERICA, Plaintiff, *vs.* THE STEAMSHIP IDAHO, HER ENGINES, Boilers, Tackle, Apparel, and Furniture, Respondent; James Carroll, Claimant.	No. 4799. Trial Before Judge of Above-named Court, Commencing April 14, 1886.

Upon the application of James McNaught, the consent of C. H. Hanford, the court directed the clerk to enter an order requiring said clerk to cause the testimony and oral proceedings to be reduced to writing, and in pursuance of said order the clerk appointed A. C. Bowman and Wm. D. Wood a deputy clerk to report said proceedings, and A. C. Bowman was thereupon duly sworn to perform said duties. The court further directed that only one-half of the expense of reducing said proceeding- to writing be taxed as costs against the Government.

A. H. WINTROWD, a witness on behalf of the libellant, being duly sworn by the clerk, testified as follows:

Questions by Mr. C. H. HANFORD:

Q. State what, if any, official position you hold.
A. Inspector of customs.
Q. What district?
A. District of Puget sound.
Q. During what time past have you held that position?

A. I have held that position since September, 1884; 12th September, 1884.

Q. Where were you on the 8th day of December, 1885?

A. Victoria, British Columbia.

Q. Do you know the steamship Idaho?

A. Yes, sir.

Q. Did you see the Idaho at Victoria on that day?

A. Yes, sir.

48 Q. State, if you know, what time she arrived at Victoria.

A. Well, I don't know exactly what hour it was in the morning. It was a little before noon; along, I think, about eight or nine o'clock in the morning.

Q. Do you know where she came from on her arrival there that day at Victoria?

A. No, sir; I could not say, only from hearsay.

Q. Do you know what voyage she was bound on?

A. Going on her way to Alaska.

Q. What time did she leave Victoria for Alaska?

A. 12 o'clock, midnight.

Q. State whether she took on board any freight at Victoria on that day.

A. I was down at the steamer at 12 o'clock, and she was taking on some lumber at that time, 12 o'clock that day, and at seven o'clock that evening she took on several barrels; between seven and eight o'clock.

Q. That was between seven and eight o'clock on the evening of the 8th of December?

A. Yes, sir.

Q. Did you see the barrels received on board?

—. I did; yes, sir.

Q. Where were you when they passed on board?

A. I was at one end of the warehouse on the dock.

Q. Were there any other persons there on the dock at that time?

A. Yes; there were several of the crew and wharfinger and the Victoria custom-house officers.

Q. Did you see any of the officers of the ship on deck?

A. I saw none that I could recognize except the second officer, Mr. Craig. That is the only one that I could recognize.

Q. Did you see any of the officers of the ship at the time they were receiving the freight?

A. The officers of the ship?

Q. Yes, sir.

A. No, sir; I could not see any of the officers.

Q. Now state in full all you know in regard to the history of these barrels previous to their being received on the ship; where they came from and when they were passed down to the ship.

49 A. I saw them leave the China house of Tai Yune, at Victoria, about seven o'clock in the evening, on a one-horse dray, two-wheeled dray, and I followed them, and they went direct to the ship. I saw the barrels from the time they left the China house until they were loaded on the ship and down into the hold.

52 Cross-examination.

Questions by Mr. McNAUGHT:

Q. When you first saw the dray with the barrels it was just moving away from the China house?
A. Yes, sir.
Q. That was the first that you saw of the dray or the barrels?
A. Yes, sir.
Q. Was the dray in the street when you saw it first?
A. No, sir; it was just leaving the building; it was not in the middle of the street.
Q. It was on the side of the street next the building?
A. Yes, right at the building.
Q. And right in front of the building?
A. Yes, sir.
Q. How far off were you at that time?
A. I was just across the street, opposite.
Q. How long had you been across the street?
A. I had just got there.
Q. Where did you come from; down the street or up the street?
A. I had come down the street.
Q. How long had you been upon that street?
A. I had just walked down that street.
Q. Were the street lights burning at that time?
A. They had the electric lights there.
Q. They were burning?
A. Yes, sir.
Q. Then you followed the dray from there down to the wharf?
A. Yes, sir.
Q. Did you keep in sight of it all the time?
A. Yes, sir.
Q. How far was it down to the wharf?
A. About a mile and a half.
Q. And when you arrived at the wharf the custom-house officers and the crew and others were on the wharf and ship?
A. Yes, sir.
Q. The barrels you saw were, as well as you remember, of different sizes?
A. Yes, sir.

53 Q. How near were you to the barrels at any time?
A. The nearest I was to them was when they were unloaded.
Q. How far off were you then?
A. Well, I could not state the number of feet; probably as far as across this room.
Q. Something like a hundred feet?
A. Yes, sir.
A. Yes, sir.
Q. That was between seven and eight o'clock in the evening?
A. Yes, sir.
Q. Dark?

A. Yes, sir.
Q. The barrels looked as though they had been used before?
A. Yes, sir.
Q. Of course that is your judgment from the looks at that distance?
A. Yes, sir.
Q. And the darkness of the night?
A. Yes, sir.
Q. And looked as though they were of different sizes?
A. Yes, sir.
Q. When they were placed on board of the ship you say that it is your impression that the second officer was in *in* charge and received it?
A. I could not say who received it; the second officer was the only man that I recognized.
Q. Did you see the steward there at that time?
A. No, sir.
Q. Could not tell whether he was there that time or not?
A. No, sir.

54 HARRY HANSON, a witness for the Government, being duly sworn by the clerk, testifies as follows:

Questions by HANFORD:

Q. What is your business, Mr. Hansen?
A. Well, I used to be a sailor on board of the Idaho.
Q. When did you leave the Idaho?
A. On the first of January.
Q. How long had you been going in the Idaho before that?
A. Nine months.
Q. What route was the Idaho running on during this nine months?
A. Alaska route.
Q. Well, between what ports—where was the end of her route—the two ends?
A. Portland, Oregon, and Sitka, as far as I know.
Q. What places between Portland, Oregon, and Sitka did she usually stop at?
A. Well, Victoria, Port Townsend, Nanimo, and sometimes we used to go to Seattle, Tongues, Harrisburg, Cassan bay, Trade bay, Salmon bay, Kalisnew.
Q. Who was master of the Idaho?
A. Capt. Carroll.
Q. Did you go in the Idaho to Alaska in the month of December, 1885?
A. Yes, sir.
Q. Do you remember what date the steamer left Victoria going north?
A. No; I could not tell the date.
Q. Do you know whether she took in and freight on that voyage at Victoria?

A. Yes, we took in some lumber and some provisions. That is all I know we took in, lumber and provisions.

Q. What time was that freight taken aboard?

A. The lumber was taken in the afternoon, and the provisions came on board—I could not tell what time it was, whether in the evening or afternoon; I think it was in the evening that the provisions came down.

Q. Did you assist in taking in the freight?

A. Yes, sir.

Q. Do you know what hours you were working there, during what time in the afternoon or evening you worked?

A. Well, I think we worked from 12 o'clock until about five.

55 Q. Did you do any work after five in the evening?

A. There was some provisions—we took aboard some barrels. I know we rolled them in on the ship's deck down forward and put them down between decks.

Q. How many barrels did you take in?

A. That is a thing that I could not tell.

Q. You do not remember how many?

A. No, sir.

Q. Did the barrels all come in at one time?

A. No; I believe not; they came in two lots.

Q. You do not remember how many in each lot?

A. No, sir; I do not remember.

Q. Did you notice how the barrels were marked?

A. No, sir; I did not take any notice of them.

Q. Did you notice the appearance of the barrels, whether they were all old barrels or painted or not painted?

A. I do not recollect how they looked. I know they were pretty light; one man could handle them and turn them end over end. That is all I recollect. It was pretty dark that night.

Q. Do you know where Capt. Carroll was when these goods were taken aboard?

A. No, sir.

Q. Did you see him?

A. No, sir.

Q. Who had charge of the work in receiving these barrels on the ship and directed their stowage?

A. I do not recollect who had charge.

Q. Do you know whether the freight clerk was at the time they were received?

A. No, sir; I don't know.

Q. Now, in going north on that trip did the steamer stop at Kaasan bay?

A. Yes, sir.

Q. What time of the day did she go into Kaasan bay?

A. I think *ti* was in the afternoon?

Q. Before dark?

A. Yes, sir.

Q. How long did she remain there?

56 A. She remained only a few minutes—took a couple of bundles of freight ashore.

Q. What kind of packages did she put ashore?

A. I believe there was a few half barrels of sugar, flour, and some stuff—I don't recollect. There was a few bundles—small packages.

Q. Was there a wharf at Kaasan bay?

A. Yes, sir.

Q. Did she land this on the wharf?

A. No, sir; went to anchor outside and took the freight ashore in a boat.

Q. Do you know why she did not go to the wharf?

A. No, sir.

Q. How long did she remain there at anchor?

A. As far as I remember, I do not think she stayed more than 15 or 20 minutes.

Q. Was the freight taken ashore from the ship or was it taken by boat?

A. It was the ship's boat that took it ashore.

Q. Do you know how many people were living at Casson bay at that time?

A. I know there was a foreman and two coopers and some Indians.

—. Foreman of what?

A. Foreman of the company.

Q. There is a fish cannery there, is there?

A. Yes, sir.

Q. Do you know the foreman's name?

A. No, sir; I do not.

Q. Are you acquainted with the two coopers?

A. No; I only know one, from Portland; his first name is Martin. I know the other cooper's name is Charley, but I don't know the second name.

Q. Whose cannery is that?

A. I believe that it belongs to Capt. Carroll, or is leased by him. I am not sure.

Q. You didn't take anything aboard the ship there, did you?

A. No, sir.

Q. In coming down from Sitka did the Idaho stop at Casson bay?

A. Yes, sir.

57 Q. Did she go to the wharf that time?

A. Yes, sir.

Q. Put anything ashore?

A. Yes; she put a few barrels ashore—eight or a dozen—I could not tell exactly.

Q. You don't know whether there was eight or a dozen?

A. No, sir; I did not take particular notice of them. I think there was probably a dozen at least.

Q. Were they the same barrels that you took on at Victoria?

A. I could not swear to that.

Q. You don't know whether they were or not?

A. No, sir.

Q. Was it in the daytime or night when she landed barrels at Casson bay?

A. I believe it was night-time—somewhere about 12 o'clock.

Q. Did you see Capt. Carroll during the time they were putting the barrels ashore at Casson bay?

A. No, sir; I was working below.

Q. Was he in charge of the ship when she went into the bay?

A. Yes, sir.

Q. Was he in charge of the ship when she came out?

A. Yes, sir.

Q. Was there anything else put ashore besides the barrels?

A. No; not as far as I remember.

Q. Was there any freight taken aboard there?

A. Yes; there was between four and five hundred barrels of salmon.

Q. How many barrels?

A. I don't recollect. I think there was between four and five hundred; am not sure.

Q. Did you help take that freight on board?

A. No, sir.

Q. Where were you working at that time?

A. Working below.

Q. Did you see Capt. Carroll at all during the time the ship was in the bay?

A. No, sir; I did not see him before I came on deck to haul in the lines to let go.

Q. That was when you were going?

A. Yes, sir.

58 Q. Have you been to Cassan bay since that time?

A. I left on the down trip when she came to Port Townsend.

Q. Have you been up there on any other vessel since that time?

A. Yes; I have been to Casson bay on the revenue cutter.

Q. When was it that you went on the revenue cutter?

A. We started from Port Townsend on the 10th of January, about four o'clock in the afternoon.

Q. In going up there did the boat stop at any place?

A. Went to Victoria and took a pilot, and run from there to Nanimo; coaled up there and laid at anchor one night.

Q. Did the cutter take anything aboard at Cassan bay?

A. She took aboard 14 barrels of opium.

Q. Did you see the barrels?

A. Yes; I seen them.

Q. Did you handle them?

A. No, sir; I did not handle them.

Q. You did not assist in taking them aboard?

A. No, sir.

Q. And they were the same barrels that were landed there by the Idaho?

A. Yes; I am almost sure they are the same barrels.

Q. What did the cutter do with them?
A. Took them to Port Townsend—all the barrels.

59 Cross-examination.

Questions by Mr. McNAUGHT:

Q. You say that in Victoria you took on some lumber in daytime and other merchandise and freight, and then in the evening you took on ship stores?
A. Yes, sir.
Q. The ship's stores, such as salt beef and pork, comes on in barrels, does it not?
A. Yes; come on in that way, and the fresh beef and vegetables of every description.
Q. And all the stuff that was received in the evening or after five o'clock was, as you said, ship stores?
A. Yes, sir.
Q. All the barrels that came on board you understood were ship's stores?
A. Yes, sir.
Q. Now, after leaving Victoria you went to Nanimo?
A. I believe we went to Nanimo that time.
Q. Nanimo is in British Columbia?
A. Yes, sir.
Q. And from Nanimo you go north into Alaska?
A. Yes, sir.
Q. Now, when you arrive at Casson bay, going up, all the freight that you landed was sent ashore in ship's boats—in small boats?
A. Yes, sir.
Q. Consisting of a half barrel of sugar and small packages?
A. Yes; there was only a few small packages.
Q. Were any barrels landed at that time at all that you know of?
A. No, sir.
Q. Do you know how the tide was there at Casson bay at that time? Was the tide in or was it out? Was the tide not out, and was that the reason that the ship did not go to the wharf?
A. No; the reason was, I think, that there was only a couple of bundles of freight and it would be more trouble to take the ship in and moore her and turn her around.
Q. It was easier to handle?
A. Yes, sir.
Q. You went from there north?
A. Yes, sir.
60 Q. Were you on board the steamship Idaho when she arrived at Sitka?
A. Yes, sir.
Q. How was she as to that time as to having any freight at all on her? Was the freight all discharged at Sitka?
A. I don't remember that there was any freight left at all.
Q. All the freight was taken out?

A. Yes; we took some freight aboard again for the Pinta; it was sent to shore by mistake. We took that aboard.

Q. When you started on your downward trip did you take on any freight at places as you came down?

A. Yes, sir.

Q. The barrels that were put ashore at Casson bay as you came down, do you know where those barrels were taken aboard on your downward trip?

A. No, sir; because we took barrels aboard at several places.

Q. Do you know how much freight was taken on board at Juneau at that time?

A. I know there was lots of barrels came aboard, but I could not tell how many.

Q. On that trip up was there a custom-house officer or inspector on board—are you acquainted with Capt. Waterbury?

A. Yes, sir.

Q. Was he aboard as you went up?

A. I believe he was.

Q. All the way till you got to Sitka?

A. Yes, sir.

Q. From Victoria?

A. If he was aboard at all he was aboard all the way up and down.

Q. On your downward trip was not the collector of customs, Mr. French, aboard?

A. Yes, sir.

Q. He is the collector of the Alaska district?

A. Yes, sir.

Q. And he was on board on the downward trip?

A. Yes, sir.

Q. And on board at the time of the landing at Casson bay?

A. Yes, sir.

Q. You stated, I believe, that you thought that Capt. Carroll
61 was owner or lessee of the cannery there at Casson bay? Do you know anything about that or is it just from hearsay?

A. It is only from report, from hearsay.

Q. How many trips do you say that you have made up and down on the Idaho?

A. Nine trips, nine months.

Q. And on all of these trips you were carrying freight and merchandise?

A. Yes, sir.

Q. Passengers?

A. Yes, sir.

Q. And frequently handling barrels of all descriptions?

A. Yes; every trip.

Q. The Idaho carried the mails also, did she not, going up and down there?

A. Yes, sir.

Q. Was a common carrier for everything. And during all that time was there a custom-house inspector traveling aboard of her or nearly all the time, as far as you remember?

A. Yes; he was aboard most of the time.

Q. Now, when you were traveling up and down there with a custom-house inspector aboard, had it not been the uniform custom to stop at these various places, stations, or ports in the night-time—whenever you happened to arrive and discharge and take in cargo in the night-time and daytime?

A. Yes; as soon as the steamer arrived.

Q. Now, this 14 barrels that were landed at Casson bay as you came down you say were taken on some place beyond Casson bay, on the downward trip?

A. That is a thing I could not tell. I could not tell where they came aboard.

Q. But the ship discharge- all her cargo after you got to Sitka and before everything went out?

A. As far as I remember. Of course I did not take much notice.

62 H. F. BEECHER, a witness on behalf of the Government, duly sworn by the clerk.

Question- by C. H. HANFORD:

Q. You are at present acting as collector of customs of the Puget Sound district?

A. Yes, sir.

Q. How long have you held that office?

A. Since the first of July, 1885.

Q. Do you know Capt. James Carroll?

A. I do, sir.

Q. Do you know what vessel he has commanded during the last year?

A. The Idaho and the Ancon last summer.

Q. What has been the employment of the Idaho during the time?

A. Freight and passengers and carrying the United States mails.

Q. Between what ports?

A. Between Port Townsend and Sitka and intermediate ports, and freight and passengers from Victoria and Nanimo and on up to Sitka.

Q. How frequently were the vessels on that route?

A. Once a month, supposed to be.

Q. Did the Idaho make a passage on that route in the month of December last, 1885?

A. Yes, sir.

Q. Do you know what time she left Port Townsend going north?

A. I think it was about the morning of the eighth of December.

Q. Do you know what hour in the morning?

A. No, sir; they generally leave early in the morning.

Q. When did she arrive at Port Townsend, returning?

A. She arrived there December 26th.

Q. Now, state, as far as you know of your own knowledge, what was done at Port Townsend under your direction in regard to searching the Idaho at that time and the result of the search.

A. I directed Mr. Gardner, the chief inspector, to thoroughly search the steamer on her arrival.

Q. Just state what was done.

A. The men went aboard of her and searched the ship, and that evening they brought up 20 pounds of opium found in the carpenter's room, and two and a half pounds found, I believe, in the engine-room. The carpenter and watchman were brought
63 up under arrest, and the watchman proved satisfactorily that he was not implicated, and he was allowed to depart.

The carpenter was arrested and the court of Judge Swan held him to answer. He waived examination——

Mr. McNaught: We object. It is immaterial.

Mr. Hanford: I intend to show what was done with the carpenter.

Q. What was the carpenter's name?

A. Charles Foster, I think.

Q. Was prosecution instituted in Judge Swan's court in his case?

A. Yes; it was started and he waives examination. The judge finally allowed him to depart on bale of $300. Capt. Carroll went his bail.

Q. Just go on and state further in regard to the search.

A. The search was continued until 12 o'clock that night, and the ship was then put under seal and the men went home, but came back at 7 in the morning. The search continued all that day, and there was 402½ pounds, I believe, if I remember rightly, found by Mr. Mintie, one of the inspectors in the customs service, in the engine department, and it was continued on until the next day, and then 140 pounds was found aft of the boiler, in the bilge of the ship, by one of the firemen on the cutter and turned over to Mr. Gardner and brought up to the custom house. On the night of the 26th a barrel was broached in the cargo, head taken off, and the barrel was left, the contents taken away. The men traced it by the chaff through the ship, which lead to the seizure of this 140 pounds in the bilge, where it was thrown. Then there was ten pounds found in the aft part of the ship, in a gunny sack. Then the Chinese cook was arrested on the 28th, going from the ship. He had six pounds and a half on him. He was brought before the court and gave bail, and on the 30th of December we finished the search and allowed the ship to depart.

Q. During the time that these proceedings were going on did you have any conversation with Capt. Carroll in regard to the matter?

A. Several.

Q. Just give the particulars of the first conversation you had with him.

A. On the evening of the 26th, just before the arrest of the carpenter, Capt. Carroll objected to detention. He said I had no
64 right to detain him because he was not at the end of his route. I told him that under the circumstances I intended to give him a thorough search; that there was opium aboard the ship. He said I had no right; that it was not at the end of the

route. I stated to him that his mail was there ashore—that was the end of the mail route—and that I intended to give the ship a thorough search. He seemed to be displeased with that, just before Gardner came in with the opium. We had no more conversation just then except as to bailing the prisoner that evening. Sunday morning the captain was in my office.

Q. Going back to that conversation, do you remember any further conversation before the opium was brought in?

A. No; only that I had no right to detain him there, as the trip was not ended.

Q. Do you remember anything about it being useless?

A. Useless to detain him?

Q. To make the search.

A. No, sir; I don't remember his saying that.

Q. Did he say anything about whether there was opium in the ship or not?

A. Did not say.

Q. Proceed.

A. Sunday morning he came to my office again and objected to my holding him any longer. I told him that I wanted to hold him until I was satisfied that there was no opium on his ship—until I had searched her thoroughly. At that point Mr. Harned, my deputy, had called me out and said that Mr. Mintie had seized some opium. I pointed it to Capt. Carroll, and he wanted to know what it was. They said that it was opium and laid the box down. As the box was taken in and laid down he said, Where did you get that? and Gardner or some one stated where it was found. That was brought into my room, and the captain sat there all the time when they opened the box and examined it, and was very inquisitive.

Q. What did he say?

A. He asked about this and that and how I knew that was opium, and I explained as well as I knew. He sat there three hours while I was counting and examining the opium.

Q. Have any further conversation?

65 A. Nothing relative to that particular business. I had a conversation with him relative to keeping his men out of the way.

Q. State what that was.

A. Mr. Gardner complained that the men were running backwards and forwards in our way and in the way of the examiners. I asked Capt. Carroll if he would not assert his authority and see that the men did not get in our way; he said he would go, and he went out to do so.

Q. Do you recollect and conversation with the captain in regard to an occur-ance in the night on the ship in regard to open- the ports?

A. That conversation was not directed to me; I heard him repeat it.

Q. State the particulars of it, what you heard him say.

A. He said he was aft in the ship and he heard a noise, a splash, and he supposed that they were throwing it overboard, and he ran

down to the aft part where this port was a-d it was all closed up and he could not find anybody.

Q. When did you hear him make those remarks?

A. I forget the exact date, sir; I think it was on Monday morning, the 28th, if I remember rightly.

Q. Did you take any action based on that information that you derived from the captain?

A. Not that time.

Q. Did you afterwards?

A. Yes, sir.

Q. What did you — ?

A. I sent after a diver and had the bay thoroughly examined.

Q. Did you see all the opium that was brought to the custom-house during the time the Idaho was detained there as having been found aboard of her?

A. I saw all that was brought up to the custom-house, and I handled a majority of it.

Q. Describe what kind of packages you found in it.

—. The carpenter's were brought up in *a* small brown paper packages in a valise, in a varnished kind of a valise—cheap thing; two and a half pounds that was brought up in that, and five tins were done up in ordinary paper.

Q. It is all in half-pound tins?

66 A. Half-pound copper tins or cans; we call them tins. The next lot that came up were in boxes. One lot was in a match tin and all soldered up, and when we opened it we found waste and paper packed around it. One lot, 83 pounds or 86 pounds, separate amounts, was in — lard case; another was in a whiskey case and in different kinds of boxes that groceries would ordinarily be placed in, or bottled liquors. That was wrapped around with paper and cloths, and labels also put on the cans. Some of the cans were labeled and some were not.

Q. Can you describe*d* the labels that were on the labeled cans?

A. Yes. Some of them had a label similar to the one that you have put in evidence, on one side, and then another, a darker salmon or crimson—I don't know the exact color of the other side—in Chinese letters. Some had similar labels but not the same writing or printing on them on one side, and then there was another label with "Fook Yune, Hong Kong." Some had no labels at all.

Q. Have you subjected any of that opium to any test to determine whether it was opium or something else?

A. I took one tin out of each box, as I generally do on any seizure, and take some opium out and burn and taste it and rub it on my thumb nail to see the color of it.

Q. You are able to testify from that examination and test whether that was opium or not?

A. Yes, sir; I did not examine every box in the seizure.

Q. This opium that was seized at that time as having been found in the Idaho, is that in your custody now?

A. Yes, sir.

Q. Where?

A. Port Townsend.
Q. Did you bring up any samples of it?
A. Yes, sir.
Q. Have you visited Casson bay since the search of the Idaho?
A. Search of the Idaho at Port Townsend?
Q. Since that time.
A. Yes, sir.
Q. When and how did you go to Casson bay?
A. I went on Sunday, January 10th, in the revenue cutter.
Q. What time did you arrive at Casson bay?
67 A. A quarter after ten o'clock the Thursday following.
Q. Now just indicate to the court what you did while at Casson bay and what was done under your immediate direction.
A. After our boat was anchored we lowered a boat and took Second Lieutenant Rhodes, a carpenter, and six of the cutter's crew ashore with me. Two men met me and I enquired of them——

McNAUGHT: We object to any conversation he had with these men.

The COURT: State where you went.
A. I went ashore and went with these men into the warehouse. They were searching the warehouse—that is, the fishery part of it. There are several buildings around there.
Q. Just describe the buildings there about the fishery, what appliances for a fishery you found there.
A. We found vats and empty barrels; some of the vats were half full of brine. We found several barrels of dog-fish oil and tried them, searching as we went toward the end of the wharf. It is a long wharf with a building put up on it.
Q. How many white people did you find there?
A. Found two.
Q. Do you know what employment they were engaged in?
A. Cooperage.
Q. Were they working at their trade as coopers when you were there?
A. They were working there. They had their fires going; heading the barrels, etc.
Q. Do you know who that fishery belongs to?
A. I don't know who it belongs to, but I have heard.

Mr. McNAUGHT: We object.
Mr. HANFORD: I wish the witness to state anything he has heard the captain say.

A. I heard Capt. Carroll say that he had a fishery in Alaska.
Q. Do you know anything further in regard to it?
A. Only from hearsay.

(Court took a recess until 1.30 p. m.)

68 APRIL 14TH, 1886—1.15 o'clock p. m.

Direct examination of Capt. H. F. BEECHER continued.

(Questions by Mr. HANFORD:)

Q. Proceed, Mr. Beecher, and state the occurrences at Cassan bay while you were there with the cutter.

A. I left off this morning—I think we were going throug*t* the warehouse examining it.

Q. Yes, sir.

A. Second Lieutenant Rhodes, of the cutter, was at the other end of the warehouse. He says, Capt., here is some barrels——(cut short).

Mr. MCNAUGHT: We object to what was said. State what you found.

A. The second lieutenant found the barrels and called to me to come up there. I went to the end, and at the outer end of the warehouse or wharf or whatever it was I found some barrels there and told the sailors to take one down and they did so and l*iad* it on its bilge. I told the carpenter to knock the bung out and see what was in it. The bung was knocked out and we found some burlap. I put my finger into the bunghole and felt of it and felt the distinct edges of tins of opium. I proceeded to take my knife out and cut through that, and one of the men said——(cut short).

Mr. MCNAUGHT: We object to what was said there.

Mr. HANFORD: If the court please, I think that is a part of the *res gatæ*, what occurred there.

The COURT: If what was done was a part of the speech there at that time, if the speech was incorporated with the act, if the cutting was a mere effect caused by the words spoken, why, the words are part of the *res gestæ*, because the tongue was an efficient instrument of doing the act with the hand; the act done was the act of the tongue and the hand both.

Mr. HANFORD: I claim that in making this search these men that were there having possession or charge of the premises and making remarks from time to time as the search was being made and in the act of making the seizure is a part of the circumstances connected with the seizure that the court is entitled to have go into the case for what it may be worth to throw light upon the circumstances of what was found and what was done; whether these men have any connection with the ship or with the master of the ship or not is a matter to be gathered from all the cir-
69 cumstances surrounding the case *the case*, and if there was an agency existing, the relationship of principal and agent, between the master of the ship and these men that were there, then their declarations in matters pertinent to their agency would be admissible in evidence——(and further argument).

Mr. MCNAUGHT: Argument.

During Mr. McNaught'- argument the court propounds the following question:

Q. Do you take the phrase *res gestæ* to be synonomous with *corpus delicti?*

Mr. McNAUGHT: Argument.

The COURT: It is one thing to introduce matters in evidence and quite another thing to apply them for a particular purpose for the decision of a case. It is one thing to hold that evidence is admissible and quite another thing to hold for what purpose it is admissible. When it is said that these men are entirely detached from the vessel and from Capt. Carroll, the whole question is begged, it seems to me. It is claimed by the U. S. here that these men were not detached, that they were agents. Now, if agents, I think the position of the prosecuting attorney is sound; that their acts on that occasion within the scope of their agency was special or general would be *res gestæ*, and certainly anything that was said by one party who was supervising the inspection of these packages at that time by way of command to be executed and which was executed at that time would be part of the *res gestæ*. I think the objection must be disallowed upon the offer of the prosecuting attorney to show that these men were agents of the vessel or of the master of the vessel for the reception and also for the custody of these packages. There is evidence here now in the nature of the circumstances to be considered by the court in determining whether or not they were agents. But, supposing that now it is altogether insufficient on which to ground findings of that sort, it is also a question as to the ordering of the testimony, as to the marshaling of it, as to which shall come first and which second.

Objection overruled.

Mr. McNAUGHT: We save an exception.

Mr. HANFORD: Proceed, Capt., and state what was said at the time you took your knife.

70 A. I took my knife and cut the burlap. One of the men says, "Look out there, don't cut those furs." I told him we would look out for the furs that was damaged; the Government would pay for it; that I was hunting for something else. On feeling these distinct outlines in the barrel or something hard, I told the carpenter of the cutter to put the bung in and up-end it and take out the head. He did so and started to knock the hoops off and the man says, "Hold on." He says, "I will get you a regular — to take the head out." He went back, accompanied by one of the cutter's men, and came back with a—I don't know what you call it, some instrument in cooperage, and raised the hoops and took the top off. As that was done it disclosed some burlap pulled over. I pulled it back and there, in order, were those tins. I ordered the men to take one out and remarked to, I believe, Lieutenant Rhodes, "These are the furs we have come this far for," in a sort of a joke, and then proceeded to get some of the tins out. I took a pin and pressed through the tin and squeezed it to get out some of the opium, and

I burned it and examined it in that way and tasted it. I told the carpenter that he could head that up, and remarked to these men, "In the name of the U. S. I seize this barrel of opium." We took another one down and went through the same proceeding, unheading every one and taking out a can and testing it and seizing them in the same way as I had before, and then Lieutenant Rhodes signalled the cutter to come into the dock, and she did, and we proceeded with our search of the rest of the warehouse. The men went up in the loft looking through the empty salmon barrels and prodding around the vats. We went out into another shed or house that was there off from the wharf or cannery or fishery or whatever it was. We pulled the staple. There was a good many barrels in there. We pulled the staple off the door and got in. There was 12 or 15 barrels of dog-fish oil, which we opened at the bung and tried with a wire or stick to see whether there was anything in them. There was 20-odd or 30-odd barrels. We went into the warehouse where there was a lot of salt stored. We made a general search of the premises. As soon as the cutter came alongside, we lowered it on board.

Q. How many barrels did you seize?

71 A. 14, sir.

Q. What did you do with the 14 barrels?

A. We took them on board the cutter and left them on deck and stored them so they wouod be safe and backed away and went down——

Q. Go on.

A. And backed away and went down towards a cove, I suppose some 20 or 35 miles from there, and anchored, anchored over night and left the pilot sleep.

Q. Give the history of those 14 barrels from that time down to now.

A. The next morning, Friday morning, we got under way just before daylight and went through Tunguass narrows after breakfast and got into Chatam sound and began examining the barrels, inspecting the barrels. I stood by the men while they were unpacking and counting the contents of the barrel, and then they were put back in the presence of one of the officers of th- cutter, he standing there watching while I went in to get warm, and then we headed the barrel up and marked it with the number of the barrel and with the number of tins and pounds, and so proceeded with all the rest of the barrels during the trip down. We numbered every one we opened on the head of the barrel from 1 to 14. The first three barrels we put the number of pounds on as well; the others I did not. I set them all down in my book, which is in the custom-house now. At the close of the examination we found 3,011½ pounds, which would make 6,023 tins if it was in the half-pound tins, but one of the barrels contained 20 tins that were about that long and about that wide and about that high (illustrating).

Q. Give the dimension in inches as near as you can estimate it.

A. About 4 by 6, I should judge; those I allowed at 5 pounds to the tin I reckoned them in at that rate. There is about 6,023 tins.

There were 20 of those big tins at 5 pounds each. I reduced it in order to get it in proper shape to report to Washington. I reduced it to that number of tins. If that was taken out of those tins and put into the ordinary half-pound tins it would make 6,023 tins. All of the rest of the barrels contained half-pound tins.

Q. What disposition did you make of the opium after you returned to Port Townsend?

A. The cutter came alongside of the Union wharf. It was taken aboard of drays and taken to the custom-house and put in
72 the lower building—the lower room in the building—and there left with the watch over it night and day. During my absence in the East the opium was taken upstairs to be more safe.

Q. Describe the appearance of the barrels.

A. Some of them were painted or had been painted blue, looking as if they had been used; one or two were oil barrels; the oil was caked on the outside; they were dark, dirty, black barrels, and others were liquor barrels, whiskey or brandy or rum, I don't know which. I believe three of them looked like either beer barrels or ale barrels, or what is commonly called a brandy cask. There were three that I remember of the lot or 5 small barrels; the rest were all 48 or 50 gallon barrels, I should term them, and the heads had been painted red.

Q. What color?

A. Red. The heads of all the barrels had been painted red. The paint was comparatively fresh around the chimes.

Q. Were all the barrels lined with burlap?

A. No, sir; not all of them.

Q. How many were?

A. I think there — 6, if I remember rightly.

Q. Did you notice any lettering or marking on any of the burlap of any of the barrels?

A. Yes, sir.

Q. Were the burlaps brought up to court?

A. Yes, sir; they are down below now, sir.

Q. The same burlap that came out of those barrels?

A. Yes, sir; I suppose so; yesterday I telegraphed to have the barrels unpacked and the burlap sent up here.

Q. How many white men did you find there at Kassan bay at the time you made the seizure?

A. 2, sir.

Q. Who were they?

A. I forget their names; they were Swe*eds*, I believe, or Germans; 2 foreigners.

Q. Just state what conversation you had with those men from the time you arrived there until you finally left or until the seizure was made.

Mr. McNaught: We object.

73 Q. Particularly in regard to any barrels you were in search of.

Mr. McNaught: We object.

Mr. HANFORD:

Q. I don't wish any general conversation; just merely that in relation to these barrels.

The COURT: Answer the question. Objection overruled.
Mr. MCNAUGHT: We except.

A. When I landed there the men came down on the beach, and I asked them if there was any water to be got there. They said, Yes; up to the head of the bay. I asked if I could get to it, and they said, No; it was all froze up. I says, "Does the Idaho come here?" He says, "No, sir; she is not coming in for a couple of months;" and he turned to me and says, Is that the Patterson? Says I, "No; have you ever seen the Pinta?" He says, "No; she is a pretty little thing." When *I* he said this I waived my handkerchief to the cutter, and the stars and stripes went down, and up went the revenue flag, a burgee, a streamer. I asked what the Idaho had laded on her last trip. He says, "A few sacks of flour and some biscuit." Says I, "Nothing else?" He said, "No, sir." I says, "Didn't she land some barrels or boxes the last trip?" Says he, "No." The youngest man*d* says, "Yes; she landed some barrels; don't you remember?" The fellow says, "No, she didn't." I says, "Didn't she land 7 or 8 or 9 barrels here?" He says, "No; she did not." I says, "We are coming up to hunt for those barrels; please come up and let us into the warehouse." They walked up the beach to a small wharf and a door. He throwed the door open into the fishery and we walked in. I told them to open the windows and give plenty of light, and examined 2 or 3 barrels of oil that were there, and I asked them again, says I, "Didn't the Idaho leave some barrels here?" This youngest man says, "Yes; she did; on the back trip she landed some furs." Just then Mr. Rhodes said he had found the barrels down at the other end. He remarked they were furs. He says, "Yes, Capt. Carroll said they were furs, and wanted us to be careful of them and put them where they would not get damaged, because he was coming back the next trip. I said, "I thought she was not coming back?" He said, "Next trip." He says, "She won't be back for two months." That was the conversation, about all I know of, and to "be careful and don't cut those furs."

Mr. MCNAUGHT: I move to strike out all the conversations detailed by the business in which Capt. Carroll was not present or the owners of the ship were not present.

74 The COURT: The case is not sufficiently developed for me to say whether it ought to be considered or not.

Mr. MCNAUGHT: I save the objection now, so that it may not be too late.

The COURT: In an admiralty case it does not much matter whether one sort of evidence goes in or another; if the case has to be reviewed the whole case comes before the supreme court, and they review it and give it weight or they do not.

Mr. HANFORD:

Q. In what territory is Cassan bay situated?

A. In Alaska Territory.

Q. Did you pass the Idaho in making the trip in the cutter up there and back?

A. No, sir; we did not pass her; she was at the dock in Victoria when we went in there for the pilot; we went right on that night to Nanimo, where we coaled.

Q. Did she pass you?

A. She passed us when we were anchored in Ward's cove, on our return; she passed us about 18 hours and a half after we went by Ward's cove, on our up trip; we went by Ward's cove at 6 in the morning, going to Cassan bay, and she went by the same night about 12.30 or 12.15, I believe, about 18 hours and ½ after.

Q. State what connection, if any, you have had as collector of customs in regard to seizing the Idaho; whether you gave any directions in regard to that.

Mr. MCNAUGHT: I suppose that is admitted in the record in this case; it is admitted that Capt. Beecher directed it to be done as averred in the libel.

Mr. HANFORD: I have no further questions for the witness except to identify some samples and burlap, &c.

The COURT: It is admitted that he made the seizure of the vessel.

Mr. MCNAUGHT: Yes, sir; it is admitted that Mr. Gardner made the seizure.

The COURT: And that she was seized under the authority of the collector?

Mr. MCNAUGHT: Yes, sir.

The COURT: And that that was preliminary to this suit?

The WITNESS: My report was made to the district attorney, and on consultation with him——(cut short).

Mr. HANFORD: I will ask the witness one further question
75 in regard to the value of this opium: Fix the value in a general way, if you are able to do so. If you know the value sufficiently, what was the value of the opium that was found in the Idaho and seized?

A. Both seizures?

A. Altogether that was found in the Idaho.

A. There was 3,600 pounds——(cut short).

Q. I mean just the amount that was found on the ship.

A. 629 pounds found in the ship.

Q. What is the value of it at Port Townsend?

A. The appraised value of it was $11.00 a pound. Over at Victoria it is $10.00.

Q. Are you acquainted with the value of opium at Port Townsend?

A. Yes, sir; I am acquainted with it——(cut short).

Q. At the time this seizure was made?

A. By what we got from it at our opium sales. $12.50 is what our average opium sales are.

Q. What, then, would your estimate be on the 600 and odd pounds that was found in the ship of that particular opium, with reference to its quality and the market there—what you say its value is or was at the time it was seized?

A. (Witness figures.) About $7,800, sir. That was at Port Townsend.

Q. What is the value of the 3,011½ pounds found at Casson bay—the value of it at Port Townsend?

Mr. McNaught: I think the value, your honor, would be at the place of the seizure. That is another collection district.

The Court: I think the value at the place where it is seized is the value that must be considered; but in arriving at that value it may be proper to take into consideration the value at the place of the custom-house.

Mr. Hanford: What would be the difference, Mr. Beecher, in the value of opium at Port Townsend — at Casson bay?

A. I don't know what opium brings at Casson bay. There is no use for it there, so far as I can see.

Q. How much?

A. There would be no use for it up there, so far as I could see. I don't know what it would bring. I never heard of any sold in Alaska.

The Court: I suppose you could arrive at it by the cost of freight to take it where it would be of value. It would have some
76 value up there, dependent upon the freight cost there would be to bring it to where there would be a market.

A. The freight, as I understand it, is from six to twelve dollars a ton from Alaska. They have different rates of freight.

Q. How much a ton?

A. From six to twelve.

Q. Twelve dollars a ton?

A. Yes, sir; six to twelve dollars a ton. I don't know what class they would class that in. They have different classifications of freight charges.

Q. What would be the difference in value of a ton and a half of opium between Casson bay and Port Townsend?

A. Well, I cannot answer. I don't know what rice opium brings in Alaska. I never had any business.

Mr. McNaught: That is a matter of simple computation, if the freight is twelve dollars a ton or six dollars a ton and there is a ton and a half of opium.

Mr. Hanford (showing package to witness): I will ask you to look at this lot in this package and see if you are able to identify any of these cans and tell where they come from.

The Court: Are you going to take his answer as to the value?

Mr. Hanford: I understood on the ruling of the court that it was a matter of computation merely, and I was willing to leave it there.

The COURT: You first asked what was the value of this 3,011½ pounds at Port Townsend.

A. (By the witness.) About forty thousand dollars, taking the basis of our opium sales there. (The witness examines the opium tins submitted to him.)

Mr. MCNAUGHT: We will admit this opium is a part of the seizure. Do you desire to introduce it in evidence?

Mr. HANFORD: I do not want to have it all taken into custody by the court. We want to sell it in a few days. We brought up these. I want to show that these are samples just taken or drawn, without any particular picking, at random from the contents of the barrels and for the purpose of being able to prove it beyond any question hereafter; but there is more here than there is any necessity of keeping for that purpose.

Q. This is a part of the Casson bay seizure?

77 A. Referring to opium, there is one box out of each barrel and this is one of the big ones (showing) that I was speaking about out of barrel (examines)—barrel No. 10. There was 20 of these tins, and the rest of the barrels was like this (showing); the rest of the barrels had half-pound tins.

The COURT: You have used the word tins in describing packages of opium. What sort of package do you refer to?

A. This (showing).

The COURT: Not strictly tins?

A. No; that is a name I took when I went into office. It is used generally throughout the reports.

The COURT: You have also used copper?

A. That is from the cover of copper or brass. We call these half-pound tins, and that had been used by my predecessor and his predecessor.

The COURT: You use the word "copper" and the word "tin" with reference to the same package?

A. We call them tins always. I never saw any of this kind (showing) until I got it in Alaska. We never saw any like this coming through (showing). It always comes in small packages.

Q. The small packages you call tins?

A. Yes, sir.

The COURT: And when you speak of copper that is the material of which the package was made or the vessels in which the opium was placed?

A. I had to distinguish it against this (showing); never saw any like this before (referring to the large tins).

The COURT: What do you call those smaller packages, coppers?

A. It is made of sheet brass or copper, only it is thinner.

Mr. HANFORD: What are those other packages?

A. Both of them are from the seizure of the Idaho here at Port Townsend. Mr. Minty, for one, and Mr. Wallens will testify to them, and that lot in front of you was found in the bilge.

Q. Has the duty on this opium been paid to the U. S.?

A. Not yet, sir.

Q. How can you tell whether the duty has been paid or not?

A. We have a stamp to put over it—a Government stamp—if the duty has been paid either in the regular way or by auction sale or by marshal's sale. Either way it is stated on the stamp. If
78 it is imported by steamer that appears with the name of the steamer. If it is sold at public sale by the collector that is put on, "At public sale," and so, if by marshal's sale, "Marshal's sale" is written in the place of the name of the steamer, and it is a stamp, a narrow stamp, that will just go around.

Q. Wrap clear around?

A. The two ends ought to come together here according to law (showing), so that in taking off the end it will break the stamp.

Cross-examination.

Mr. McNAUGHT:

Q. When the Idaho was at Port Townsend, when the first seizure was made at the different places you have mentioned, all that you know of these seizures and the places where the seizures were made on the steamer is from reports that were made to you?

A. Reported to me by the chief inspector, sir.

Q. And your testimony relating to the places of seizure is hearsay from your inspector?

A. Yes, sir. I did not see any of the opium found on her at all there.

Q. You stated that the captain said he thought you had no right to hold her; that she was not yet at the end of her voyage. Didn't the captain ask you to, after you had searched the upper part of the ship—to *ceil* up the ship and send an inspector with her to Portland and let the cargo be discharged, and there you could ascertain without detaining the ship?

A. He asked me on Sunday morning. He asked me on Sunday morning and not on Saturday evening.

Q. Not on Saturday evening? You stated that you asked him to have his men on board the ship give you and your men opportunity to make a search, and he said, All right; do it.

A. My chief inspector asked him several times, and he complained to me, and I finally asked the captain if he would be kind enough to see that his men kept out of the way of ours, so we could get on with the search. It would be better for him and ourselves too.

Q. He said he would?

A. He said he would.

79 Q. When the ship finally went around to Portland—I believe that was the end of her voyage—you did not send an inspector around with her?

A. I gave the captain his preference to discharge his ship on the dock——(cut short).

Q. I ask if you sent an inspector.

A. I sent four inspectors.

Q. Finally did as he requested?
(No answer.)

Mr. McNAUGHT: That is all.
Mr. HANFORD: That is all.

JOSEPH W. ALEXANDER called as a witness for the United States and sworn by the clerk.

Questions by Mr. HANFORD:

Q. Where are you employed at present?
A. In the custom-house.
Q. What position do you hold?
A. Inspector of customs.
Q. Have you been there since the beginning of January?
A. Yes, sir.
Q. Were you there when the revenue cutter returned from Cassan bay?
A. Yes, sir.
Q. Do you know whether any barrels were landed from the sutter at Port Townsend on her return?
A. I saw 14 barrels rolled into the custom-house from the dray that came from the cutter.
Q. Do you know where those barrels have been ever since that?

Mr. McNAUGHT: We will admit they are the same barrels that your honor had when they were seized at Port Townsend.

Mr. HANFORD: That were examined by this court at Port Townsend?

Mr. McNAUGHT: Yes, sir—that is, so far as the opium was concerned, if there was anything particularly drawn to the attention of the court except the opium.

Mr. HANFORD: That is where these burlaps were taken out.

Mr. McNAUGHT: Those burlaps you have here.

Mr. HANFORD: Yes, sir.

Mr. McNAUGHT: All right, sir.

80 Mr. HANFORD: You want me to prove the burlaps, do you?

Mr. McNAUGHT: You might open them.

Mr. HANFORD: Do you know anything about the burlap in those barrels?

A. Yes, sir; I took the burlap out.
Q. Did you take the burlaps out of the same barrels that were examined by the judge at Port Townsend?
A. Yes, sir.
Q. If you have got those burlaps here I wish you would find them or produce them.

The COURT to Mr. McNaught: Do I understand you to admit that these 14 barrels which were there at Port Townsend and which were inspected by or, rather, were viewed by me in the custom-house were the same 14 barrels in regard to which Capt. Beecher has testified as having been seized at Cassan bay?

Mr. McNAUGHT: That was the intention of my admission. I have no doubt they are the same barrels.

A. (By the Witness.) They are sealed up in the sack. Do you wish them opened?

Q. Who sealed them?

A. I did. (The witness opens the sack containing the burlaps.) Each barrel's was tied up separate that it came out of (showing). This one is from barrel No. 14 (showing tag attached to burlap).

Q. Spread that out so as to show whatever lettering there may be on it.

A. (The witness spreads out the burlap and reads from the marking.) There is Victoria, B. C., and "Patna opium" I see on there.

The COURT: Do you want that read and incorporated in the short-hand reporter's notes?

Mr. HANFORD: Yes, sir.

The COURT: If it adds any value to the case it ought to be done, unless you intend to carry that as an exhibit right along with the case. Do you propose to introduce it as an exhibit unless it can be carried in that form along with the case?

Mr. HANFORD: I don't know whether the short-hand reporter can get this into shape.

These appear to be marked "Patna op. ty. 4"—ty. in a block—and "V. N. V. R: Victo. ≠," and some figures, "13-460."

Mr. HANFORD: I think it would be better to preserve all this stuff as exhibits in the case.

81 The COURT: You want to identify the particular burlap with the particular barrel?

Mr. HANFORD: There is a label on it—pinned on.

The COURT: Is the label admitted to be correct?

Mr. HANFORD: The witness has testified that it is taken from the barrel No. 14.

The COURT: You can put it in evidence if you want to.

Mr. HANFORD:

Q. Is there more than one piece in those bundles?

A. I think there are two pieces in each package.

Mr. HANFORD: There are twenve pieces of burlap?

Q. Do you know anything about that barrel—where that came from (pointing to a barrel in the court-room)?

A. I do not, sir.

Q. Do you know anything about these peices of newspaper (pointing to pieces of paper which came from the barrel above referred to)?

A. No, sir.

Mr. HANFORD: That is all.

Mr. McNAUGHT: No questions.

The COURT: How about these exhibits? You want to get them in order.

Mr. HANFORD: I offer these 12 pieces of burlap.

The COURT: Has he identified each piece with the barrel in which it came, or is that not deemed by you of importance? I don't know what your evidence is going to be.

Mr. HANFORD: Mr. Alexander, come back again.

The COURT: It strikes me that if these peices go in, they had better each be identified with the barrel or the package.

Mr. HANFORD:

Q. Are the marks on the burlap all the same, or is there a difference?

A. I think the characters are different on some of them. They are not all alike.

Q. This label on the pieces of burlap there, do all of them show the barrel they came from?

A. Yes, sir.

Q. And these pieces of burlap all came from some one or the other—each piece came out of some one or the other—of the 14 barrels?

A. Yes, sir; according to the number as indicated.

Q. According to the number you put on?

82 A. Yes, sir.

Q. The labels on these are correct, are they?

A. Yes, sir.

Mr. HANFORD: I offer the 12 pieces of burlap.

The COURT: Do you know at what time those markings on the pieces of burlap were made?

A. They were made yesterday afternoon about 3 o'clock.

The COURT: Those black markings up there (showing)?

A. No, sir; I don't know anything about that. I thought you meant my labels.

The COURT: You have not answered my question. I asked you if you knew about what time those markings were made.

A. No, sir.

The COURT: You don't know whether those markings were on when you first saw the burlap?

A. Yes, sir; they were on when I first saw the burlap.

Mr. HANFORD: How soon after the cutter arrived at Port Townsend did you see those pieces of burlap?

A. I think it was on the 18th of February that we opened the barrels.

Q. Do you know whether the barrels had been opened prior to that, after they had arrived at Port Townsend?

A. No, sir.

Q. That is the first time they were opened in Port Townsend?

A. Yes, sir.

Mr. HANFORD: That is all.

Mr. MCNAUGHT: If your honor please, we will have these opened and examine them, and if we want to ask any questions about the marks we will recall him.

The COURT: Let these be marked in some order, so I can keep run of them. Mark them "B 2," "B 3," "B 1," and so on.

Mr. HANFORD: I wish to recall Capt. Beecher on the identity of the burlap.

Capt. H. F. BEECHER recalled.

Mr. HANFORD:

Q. At the time the barrels were opened and unpacked on board the cutter, state what disposition or alteration, if any, was made in the burlap that you found in the different barrels.

A. None, sir.

Q. Do you know anything about the marking of the
83 burlap—when that was made, those letters and figures?

A. It was made prior to January—say, about January; let me see, the 14th.

Q. Was that same marking on the burlap the first time you saw it?

A. As near as I can remember, I did't take the burlap out of the barrels at all; I just left it intact as it was; put it in to keep the tin away from the barrels; the tins were packet in there with rice chaff sifted through or paper clippings or straw; this burlap was just struck down and pushed down; I pushed them down and looked at the marks; it was not taken out of the barrels at all.

Q. You saw these marks on some of them?

A. Yes, sir.

Q. Has there been any additional marks or any alterations of marks, to your knowledge, since that time till now?

A. Not to my knowledge.

Mr. HANFORD: That is all.

Mr. MCNAUGHT: No questions.

ARTHUR L. BLAKE called as witness on the part of the United States and sworn.

Questions by HANFORD:

Q. Are you a custom-house officer?

A. Yes, sir.

Q. What officer?

A. Deputy collector.

Q. Have you been deputy collector since the beginning of this year, 1886?

A. No; oh, yes, sir; since the first of January.

Q. Were you deputy collector in Port Townsend in the latter part of December, when the Idaho arrived there on her downward trip?

A. Yes, sir.

Q. Were you aboard the Idaho while she was at Port Townsend in December?

A. I was.

Q. Did you assist in making the search of the vessel?
A. I did.
Q. I wish you would state to the court fully and in detail all that you know of your own knowledge in regard to that search
84 and its result. Begin at the beginning and when you first went aboard and state all that was done there and who participated.
A. I think it was on the 26th of December, the day that we had instructions to search her, and pretty near all the inspectors and myself and another deputy collector and Mr. Fennemore were all on board searching at various times.
The COURT: Can you give the names?
A. Of those who went on board?
The COURT: Yes, sir.
A. There was Mr. Lake, the inspector, Mr. Minty, Mr. Gardner, Mr. Whittlesey, and Mr. Fennimore, and I think (hesitates) there was myself and, I should suppose, one or two more. I don't recall the names of the others just at present; all the available force was there.
Q. What time did you begin the search?
A. I think it was commenced some time in the afternoon of the 26th. I was down there, among others. We were each detailed by Mr. Gardner to search different parts of the ship. I was searching in the after cabin, below; I was searching in the upper deck, and then I went to the lower cabin and searched one side of it, and Mr. Fennimore searched the other, and in searching I examined the room occupied by the carpenter, and some one else. I forget who had the room with him; there were two in the room; there was the carpenter from the revenue cutter and one of the seamen with that party; the carpenter and the seaman were inside of the room; I was standing at the door, seeing what they overhauled and what they found. The carpenter handed me a small black valise, which he said was pretty heavy, and asked me what it was. The moment I felt and saw it I said it was opium, and I asked one of the stewards, I think it was, who occupied that room——(cut short).

Mr. MCNAUGHT: I guess we had better object to the conversations there between the stewards and the inspector.

A. (The witness.) Well, I ascertained that the room was occupied by the carpenter.
Q. The carpenter of the Idaho?
A. Yes, sir.
Q. Do you know his name?
A. His name is Foster.
Q. Proceed.
85 A. We sent for him and I handed the opium and valise over to Mr. Gardner, who is an inspector, and told him also that it was the carpenter who occupied that room. He opened the valise and saw at once it was opium and took *and took* it out of there and took it to the custom-house and we went on with the search. I found nothing more. We search- pretty late that evening;

the search was continued, I believe, over two days, the men finding different lot- in different parts of the ship, but that was all I found—20 pounds.

Q. Did you see any of the opium that was in that valise; did you see the packages?

A. Yes, sir; when Mr. Gardener opened it I saw that it was opium in the usual-sized packages, bound up in papers—2 & ½ pounds wrapped up in a paper—in this common brown paper.

Q. 2 & ½ pounds in one package or ½-pound packages like this (showing)?

A. 2 & ½ pounds in a package together—5 tins.

Q. 5 of these (showing)?

A. Yes, sir; 5 tins. That is the way they are usually packed when they are done up in papers.

Q. Were the tins labeled? Did you see the tins?

A. I did not notice particularly whether they were labelled at that time or not. I think they were. That is a sample there that I have placed on the desk (showing).

Q. Which; this one (showing)?

A. One sample that I handed in to you marked with my initials on it, with my initials on the white side of it. (Witness searches and finds the tin he refers to.)

Q. That is one of the tins that was in the valise (showing the tin to which the witness last referred)?

A. Yes, sir.

The COURT: Had you better have it marked or designated in any way or is it proposed to introduce any of those tins in evidence?

Mr. HANFORD: I will offer this one in evidence.

The COURT: Mark it Exhibit "C."

Mr. HANFORD: I want to put in the evidence one of these packages from the 14 barrels. I do not think it is necessary to offer more than one; one might be selected.

The COURT: You don't care about putting that larger package in?

86 Mr. HANFORD: I will offer that one—that large one.

The COURT: The first tin about which Mr. Blake testified was to be marked "C."

The CLERK: That is what I have.

The COURT: The other one would be "D," and this large package will be marked "E."

W. S. MINTY called as a witness in behalf of the U. S. and is sworn.

Mr. HA-FORD:

Q. What official position do you hold? Are you one of the officials of the custom-house in Port Townsend?

A. Yes, sir.

Q. Were you there on the 26th day of last December?

A. I was, sir.

Q. Did you assist in making a search of the Idaho at that time?
A. Yes, sir.
Q. Just state all that you know of your own knowledge in regard to the search of the Idaho and what was found.
A. Well, sir, on the 26th of December last, about 4 o'clock in the afternoon, I was sent for to the house. They sent for me and told me to go down aboard the Idaho, and then I come up to the office and there was 3 men of the cutter detailed with me to go and search the engineer's department and the engine-room—3 men of the cutter. We went down there and searched the engineer's rooms and went down in the shaft alley of the boat; one of the men found a little package of 5 cans that evening.
Q. Did you see them?
A. Sir?
Q. Did you see the 5 cans?
A. Yes, sir.
Q. Was you with him when he found it?
A. Yes, sir.
Q. What were the cans like?
A. Well, the same as one of those (showing) ½-pound cans. I tore the paper and looked at it.
Q. What did you do with those five cans?
A. I kept them until one of the officers, I would not say
87 which one, Mr. Gardner or Mr. Wintrode, I would not say which one—I handed them to him.
Q. Just describe the place where these 5 cans were found.
A. It was up on the port quarter in the shaft alley, on one of the timbers there.
Q. Did you find any more opium—were you present when any more opium was found in the ship?
A. Yes, sir.
Q. Go on and state.
A. I found some opium—that was the next day—in the engine-room.
Q. How much?
A. About 400 pounds.
Q. Describe the place where that was found.
A. That was in the coal-bunker—in the after end of it, sir—the lowest coal-bunker—the second coal-bunker from the botton of the ship.
Q. Was that 400 pounds put up in ½-pound cans like the rest?
A. Yes, sir.
Q. What was it in, a box or in a large package—put together in any large packages?
A. There were six boxes and one can, a match can or oil can, that was soldered up, and 3 packages rolled up in papers.
Q. Did you find any more after that?
A. I did not, sir.
Q. See if you can identify any of these as being part of the same that you found in the ship (showing 8½ pounds to the witness).
A. (Witness examines.) Yes, sir; that is out of this box (show-

ing), and that is out of the packages, only one out of the 3 packages. There were 3 packages there, and that is one out of the 3. Here is one out of the largest box of all (showing). Here is one out of the tins (showing). Those now is from the (showing) 6½-pound tins. Those 6 now is out of the boxes No. 1, 2, 3, 4, 5, & 6.

Mr. HANFORD: I would like to offer in evidence one of these. That is the Lai Yune label. We offer this one (showing)——

Mr. McNaught examines the package offered, and the package is handed to the clerk.

The court admits the package.

Mr. HANFORD: That will be Exhibit "F."

The CLERK: Yes, sir; it is Exhibit "F."

88 Mr. HANFORD:

Q. How long did it take you to make a complete search of the ship?

A. I was on duty for—I was on from the 26th to the 31st—that is, I was on for 48 hours on the first start steady, in that neighborhood—and then I went to sleep. I worked most of the time until the 31st of December.

Q. Do you know nothing about that barrel (pointing to the barrel in the court-room)?

A. Yes, sir.

Q. Do you know where you saw that barrel?

A. Yes, sir; I did not see it until it was coming off on the dock. It was on the dock, it was not on the ship.

The COURT: Where is the dock?

A. In Port Townsend, sir. Right along by the boat.

Mr. HANFORD:

Q. Was it empty then?

A. Yes, sir.

Q. Did you look inside of it to see if there was anything in it?

A. Yes, sir.

Q. What did you see in it?

A. It looked like a little chaff and some paperss.

Q. Newspapers?

A. Yes, sir.

Q. Do you know whether they are the same newspapers that are there now?

A. I could not say, I have not seen them, sir.

Q. Were you shown where the barrel was supposed to have come from in the ship?

A. Yes, sir.

Q. Did you notice anything about that particular spot?

A. Yes, sir.

Q. What?

A. A good deal of chaff. Either rice chaff of some kind, as is something had been packed there and been emptied out, and some papers—old newspapers part of them were.

Q. Did you see any chaff or old newspapers, anything of the same kind, in any other part of the ship?

89 A. Yes, sir; I traced this chaff back aft to the boilers over the top of the oil barrels and found some papers with opium on them by the tanks.

Q. What kind of paper—newspaper?

A. Yes, sir; and the track of the chaff went over the top of the tanks. I followed this track down to the forward end of the boiler by the chaff; that was the way I searched.

Q. Do you know whether any opium was found there?

A. Yes, sir.

Q. How much?

A. I could not say how much now.

Q. Was you there when it was found?

A. No, sir; I was not.

Q. Who found it?

A. Mr. Wallens, one of the men that was searching with me.

Q. Did you save any of those pieces of paper that had opium on it that you found there?

A. Isn't some of them saved? I didn't save any.

Q. What was the distance from the point where the barrel was supposed to come from where you traced this chaff to the place over the boiler where the opium was found?

A. I could not say; I suppose, though, in the neighborhood of 40 feet; I could not swear to the distance, as I did not measure it; in that neighborhood somewheres.

Q. Were there other barrels where this chaff started from?

A. Yes, sir.

Q. What kind of barrels?

A. Well, they was oil barrels there with oil in them.

Q. Was that a part of the ship where they stowed freight?

A. Yes, sir; there was oil barrels stowed there.

Q. Just state what part of the ship it was.

A. Well, it was in the (hesitates)—it was on the second deck.

Q. Is that the same deck the boiler is on?

A. No, sir; the boiler is down below.

Q. It is above the boiler?

A. Yes, sir.

Q. Is it on the main deck—what is called the main deck of the ship?

A. No, sir.

Q. Is it below the deck where the state-rooms are?

90 A. Yes, sir.

Q. What part of the ship were they stowed in—was it in the forward or after part of the ship or midships?

A. In the forward part of the ship, sir—that is, forward of the boiler, anyway.

Mr. HANFORD: That is all.

Mr. MCNAUGHT: No questions.

FRANZ WALLENS called as a witness on behalf of the U. S. and sworn.

Mr. HANFORD:

Q. What employment are you in?
A. Fireman of the cutter.
Q. Of the revenue cutter?
A. Yes, sir.
Q. Were you on the cutter in December of last year—last December?
A. Yes, sir; I have been on her for a year—12 months.
Q. Did you assist in making a search of the steamer Idaho, in December, at Port Townsend?
A. Yes, sir.
Q. Did you find any opium?
A. I did, sir.
Q. How much did you find?
A. Well, I found 3 quantities of it.
Q. 3 quantities?
A. Yes, sir.
Q. How much in the first lot?
A. 6 tins, sir—3 pounds and ½.
Q. Where did you find them—what part of the ship?
A. I found them in the shaft alley.
Q. Where?
A. In the shaft alley.
Q. In the shaft alley?
A. Yes, sir; on the port side.
Q. Go on and tell about the next lot.
A. Well, the second lot I found underneath the boiler.
Q. Underneath the boiler?
A. Yes, sir.
Q. How much did you find there?
91 A. 297 tins, 148 pounds & ½.
Q. What time did you find that?
A. On Tuesday, I think, sir (refers to memorandum book taken from his pocket); on Tuesday, the 29th, sir.
Q. Just describe the place where you found this big lot.
A. Well, it was underneath the floor—underneath the boiler on the starboard, sir.
Q. Was it enclosed or covered or how was it placed?
A. There was a floor over the bilge, where the bilge was; it was placed underneath this; stowed in loose—stowed amongst the water and grease.
Q. Was the floor taken up?
A. No, sir; it was all covered over, and as I was searching there and looking for it I saw some tracks of opium, this chaff that we was tracking.
Q. Chaff—what kind of chaff was it?
A. I don't know what kind of chaff—barley or something like that.

Q. Have you ever seen rice chaff?
A. I have, sir.
Q. Was it like this?
A. I could not say exactly what kind of chaff it was, sir.
Q. It was some kind of grain?
A. It was some kind of grain, sir. We followed that for some time. I could not find nothing, so at last I discovered a piece of furnace door, a little hole just about as much as I could get my hand down. I had a rod, and I run the rod down and felt something scrape against it, the rod, like a tin or something, so I took a pry-bar and pryed the floor up, and I found there was tins stowed in the water and grease in the bilge, and I sent down Mr. Burns for Mr. Gardner and the custom-house inspectors there, and they came there. I overhauled and picked them all out of the bilge and counted up to 297 tins. I delivered it to him, and they carried them up to the custom-house.
Q. Can you identify any of those tins you found in there (showing 3 cans to the witness)? Do you know whether these are *the* some of the tins?
A. (Witness examines.) Yes, sir.
Q. Is that one of them (showing tin to witness)?
A. Yes, sir.
92 Q. Is that in the same condition now as when you found it?
A. No, sir; it has been washed.
Q. What did you wash it for?
A. Just wiped the grease off because it was all covered with this fish oil, and we could not handle it without wiping it off, sir.
Q. Were the rest of them in the same condition?
A. Yes, sir.
Q. These 2 packages here, do you know where they came from (showing 2 tins to witness)?
A. Yes, sir.
Q. Did you find them in the ship?
A. I did, sir.
Q. Were they in the bilge?
A. Yes, sir.
Q. Were any of the labels washed off when you washed the cans?
A. They were washed off. This label is put on since.
Q. Where did you get it?
A. In the custom-house, I suppose.
Mr. HANFORD: That is all.
Mr. MCNAUGHT: No questions.

CHARLES S. DAVIS called as a witness on behalf of the U. S. and sworn.

Mr. HANFORD:

Q. Are you an officer in the custom-house at Port Townsend?
A. Yes, sir.

Q. Was you with Mr. Wallens during the time of the search of the Idaho in the latter part of December last?

A. I was.

Q. Was you with him when he found the different lots of opium referred to?

A. I was right close when he sung out he found it and went right to him.

Q. Did you count the packages to know how much he had found?

A. I did.

Q. How much did he find altogether?

A. He found 180 pounds, all told—that is, that I know anything about.

Q. In what lots—one lot or 2 different lots?

A. In two different lots.

Q. Describe the places in the ship in which he found the different——

93 A. The first lot he found was in the bilge under the boiler, a little forward of midships on the starboard side, 148 pounds & ½. That was the first lot.

Q. Yes, sir.

A. And the second lot he found just aft of that on the starboard side; I suppose about 16 feet, maybe; next to the fire-room floor.

Q. How much there?

A. There was 31 pounds & ½ there. I did not count the 31 pounds & ½; I saw it counted, standing right there when they took it out; it was in a gunny sack.

Q. In a gunny sack?

A. Yes, sir.

Q. Was that all that was found while you were there?

A. That was all I saw found. I was not on the ship all the time; I was boarding officer most of the time. I was only there part of the time.

Q. Did you see any chaff like Mr. Wallens referred to?

A. Yes, sir.

Q. What kind of chaff; do you know?

A. Well, I could not state; I did not notice particularly what kind of chaff. They informed me the barrel had been removed that night, so I went to work and brought Mr. Minty and put him on the trail. I went following the chaff from the lower hold back to the water tank, over the bulkhead next to the water tank; that is here (showing). It goes alongside the tank and over the tank and under the beam, I should say about that high where they passed under (showing). By the appearance of the trail of the chaff we could see was right next to the end of the boiler, the forward end of the boiler, where it went down aft of the tank, and, from the best we could make out, it started on the starboard side, and that is as far as we could trace it. We searched and kept searching for it. Minty and I tore up the back part of the boiler-room; we were not satisfied; we could not find anything, and we went around to where the 148 & ½ pounds was found. We pried it up; we calculated—

we didn't hardly think there was any there, so we passed it. Mr. Wallens, he called me that night, on the night of the 29th, I believe—the 29th or 30th; I would not be certain which. I went to him,
94 and right in the same place where we sat down and argued over it he pried and found it. He picked it out of the bilge and passed it to me, and I passed it to one of the boys from the cutter. I don't know which one it was. Mr. Gardner was called, and Capt. Carroll also was present; he was there present. I don't know whether he was called or not at the time we were pulling these boxes from the hole in the bilge.

Q. Did you see that barrel on the vessel (referring to a barrel in the court-room)?

A. No, sir; I did not. The first I see of that barrel was in the custom-house.

Mr. HANFORD: That is all.

Mr. MCNAUGHT: No questions.

EDWARD L. LAKE called as a witness on behalf of the U. S. and sworn.

Mr. HANFORD:

Q. Are you one of the custom-house officers at Port Townsend?

A. Yes, sir.

Q. Did you assist in searching the Idaho last December?

A. Yes, sir.

Q. Did you see that barrel on board the vessel (referring to the barrel in the court-room)?

A. Yes, sir.

Q. When did you see it there?

A. I found it in the lower hold on Sunday morning.

Q. What condition was it in when you found it?

A. The head was out of it and it was on top of some oil barrels, or some barrels of oil on deck or in the forward part of the ship, covered up with old canvas.

Q. Covered up with old canvas?

A. Yes, sir.

Q. Was there anything in it?

A. Nothing in it at that time, except a little chaff.

Q. What kind of chaff was it?

A. It was what I would call barley chaff; it looks like the outside of barley kernels.

Q. Was there any of the same kind of chaff scattered around the ship?

A. Yes, sir.

95 Q. Did you trace it any distance?

A. I traced it through the water tanks. We had been working down there the night before. I had moved quite a number of barrels of oil from the forward part of the ship aback to the partition that goes through the ship—the bulkhead I suppose they call it—and the next morning when I went down there had been a hole knocked through this bulkhead, and this chaff was scattered all

over these barrels we had moved the night before. I went in back to the hole that had been knocked through and found the head of the barrel in back of the water tank. I went back onto the oil barrels and found the barrel in forward. The chaff was scattered all over the barrels we had moved the night before. We tracked it in over the water tank as far as we could hear the bilge or engine.

Q. Were any of the crew or men belonging to the ship aboard of her at the time you were searching?

A. Yes, sir; they were all there.

Q. Did they move about freely through the ship—the different parts of the ship?

A. Yes, sir.

Q. Do you know whether any complaint was made of heat to the master?

A. I don't know whether there was or not.

Q. Was you present when any opium was found in the ship by that search?

A. No, sir; no opium.

Q. Do you know anything about any of these newspapers in the barrel—when and where they were found?

A. This head of the barrel that I found in back of the water tank—there was two newspaper- stuck onto that right over the bottom side of the head or the inside of the head. There was 2 newspapers stuck onto that. They was there when I found them.

Q. Were these newspapers saved?

A. Yes, sir.

Q. Do you know whether they are the same newspapers that are there now (pointing)—the papers taken from the barrel—in the court-room?

A. I have not looked at those. I presume they are.

Q. See if you can identify them.

96 A. (Witness examines papers.) That is one of them. The other I would not swear to.

Mr. HANFORD: We offer this one in evidence—the one that is identified. This porports to be a copy of the Daily British Colonist of the date of Oct. 28th, 1885.

The COURT: What did you say was the title of the paper?

Mr. HANFORD: The Daily British Colonist, British Columbia, Saturday, Nov. 28th, 1885, and there is a peculiar odor about it.

The COURT: Let it be Exhibit "G."

Q. Who took charge of the two papers you found there?

A. Mr. Gardner. I would not say there was 2 there. It is that one. He took charge of that.

Q. Whatever papers you found in the barrel-head Gardner took charge of?

A. Yes, sir.

Mr. HANFORD: That is all.

Cross-examination.

Mr. McNAUGHT:

Q. These 2 papers that you refer to were lying under the barrel-head?
A. Stuck onto the barrel-head.
Q. Under it or on top of it?
A. Well, on the inside of the head—the side that would be inside the barrel.
Q. Where was the barrel-head?
A. In back of the water tank.
Q. Well, which side up was the barrel-head—the inside or the outside?
A. It was standing up edg-ways.
Q. Standing up edgeways?
A. Yes, sir.
Q. And these newspapers were stuck onto the barrel-head?
A. Yes, sir.
Mr. McNAUGHT: That is all.

97 Lieutenant JOHN N. RHODES called as a witness on behalf of the U. S. and sworn.

Mr. HANFORD:

Q. Are you an officer of the revenue cutter?
A. Yes, sir.
Q. Was you on the cutter in the month of January when she made a trip to Cassan bay?
A. Yes, sir.
Q. Did you go ashore with Collector Beecher at Casson bay?
A. Yes, sir.
Q. How many people were living at Cassan bay at that time?
A. I saw only two.
Q. Did you know their names?
A. I don't know, sir. I don't remember the names.
Q. Do you know what they were doing there at that time?
A. Yes, sir; they were coopers.
Q. Did they have a workshop?
A. Yes, sir.
Q. Were you in it?
A. Yes, sir.
Q. Did they appear to be at work as coopers at that time?
A. Yes, sir; one of them was.
Q. How many building- are there there?
A. I only saw—I only noticed the building I was in.
Q. What kind of a building was that?
A. A long flat building.
Q. What is it used for?
A. A cooper shop and store-room.
Q. Store-room——(cut short).
A. Cooper shop.

Q. Is it all in one compartment or divided?
A. I think there is a partition between it.
Q. Who had charge of the store-room?
A. I suppose the coopers.
Q. Were you inside of the store-room?
A. Yes, sir.
Q. Did you make a search of it?
A. Yes, sir.
Q. Was you there when Collector Beecher made a seizure of some barrels?
98 A. Yes, sir.
Q. Who found those barrels?
A. Two of our crew.
Q. Was you with them when they found it?
A. No, sir; I was very near. I was not right at the place.
Q. Describe the situation the barrels were in, whether they were covered or concealed in any way from observation of any person passing through there.
A. They were in at the end of the building nearest to the end of the wharf, on the right-hand side coming from the wharf towards the land. They were stowed. I don't know as they were concealed. It was very dark in there when I was there until they opened. (Answer not completed.)
Q. Are there any windows in that building?
A. Yes, sir; they were not windows, they were slides.
Q. Slides; were they opened?
A. I opened them.
Q. Was you there at the time Collector Beecher entered the store-room?
A. Yes, sir.
Q. Do you know who admitted him?
A. One of these coopers.
Q. Was the door locked prior to that—was it kept locked up?
A. I think so. I am not positive, though.
Q. How many barrels were seized?
A. 14.
Q. Were these barrels taken aboard the cutter?
A. Yes, sir.
Q. Were they unpacked aboard the cutter?
A. Yes, sir.
Q. Were you present when they were unpacked?
A. Some of the time. I was on board the cutter at that time. I was not present all of the time.
Q. Did you see the process of opening them and see what they contained?
A. Yes, sir; some of them.
Q. What did you see of the contents of the barrels?
A. Opium.
Q. In these ½-pound tins?
99 A. Some of them ½-pound and some of them larger ones.

Q. Some larger ones? Do you know how many of the larger ones there were in the barrels?

A. No, sir. I should judge about—I know of one barrel only. I would not testify how many barrels contained large tins.

Q. Just describe the process of packing and unpacking the barrels as it was done in the cutter, who had charge of it, and how closely it was attended to.

A. The collector; he was unpacking them; he had charge. One of the officers of the cutter and several seamen assisted. The opium was taken out and the number of tins counted and repacked one by one at a time.

Q. One barrel at a time? A barrel was opened and unpacked and packed up again before another one was opened?

A. Yes, sir.

Q. Were the wrappings or packing in the barrel removed?

A. No, sir; not to my knowledge; those that I saw unpacked, it was not, excepting——(cut short).

Q. Did you see any burlap used in the barrels?

A. Yes, sir.

Q. Did you notice any marks or lettering on the burlap?

A. Some marks.

Q. Were those barrels all packed up again—just the same cans—and packed in the same burlap that they were when they were first found?

A. Yes, sir; as far as I know.

Mr. HANFORD: That is all.

Mr. MCNAUGHT: No questions.

THOMAS MCDONALD called as a witness on behalf of the U. S. and sworn.

Mr. HANFORD:

Q. Do you belong to the revenue cutter?

A. Yes, sir.

Q. What is your position in the cutter?

A. Carpenter.

Q. Carpenter?

A. Yes, sir.

Q. Was you on the cutter when she went to Casson bay in January last?

100 A. Yes, sir.

Q. Did you see the barrels that were brought aboard the cutter there?

A. Yes, sir.

Q. Did you go ashore there?

A. Yes, sir.

Q. Did you see these barrels bef-re they were brought aboard?

A. Yes, sir.

Q. Where were they when you first saw them?

A. Right inside there—right in the shed—two tiers of them, 7 on

each row, 14 barrels, as you enter on the right-hand side—on the side away from the wharf.

Q. Did you assist in putting them aboard the cutter?

A. No, sir; I did not assist in putting them aboard; I was opening them up.

Q. You opened them up?

A. Yes, sir.

Q. Did you open them ashore or after they went aboard?

A. I opened them up the first thing we done; I took the bung out. There was sacking—there was a colored sack, and we could not get at it—in there; so we took the top off, so we could see, and there was the opium right at the top of the barrel.

Q. Did you take the tops off the other barrels?

A. Yes, sir.

Q. Did you take any of the opium out up there?

A. We took one tin out to test it to see if it was opium, and put it back again and closed it up—just closed it up and took them aboard the vessel.

Q. Did you assist in unpacking it aboard the cutter?

A. Yes, sir.

Q. Just state how that was done; just relate what was done in regard to unpacking and in regard to packing it up again.

A. We took all the tins out of one barrel and tested them to see if they were all right, and put them back again, the same as we took them out, and marked the number of tins.

Q. Marked down the number of tins?

A. The number of tins.

Q. You put the same tins back in the same barrels that they came out of?

A. Yes, sir; we put everything back the same as we got it.

Q. Everything back?

101 A. Yes, sir.

Q. Was there anything in the barrels besides opium—any stuff filled in?

A. Yes, sir.

Q. What kind of stuff?

A. Some sort of chaff and paper wrappings and one thing and another, and some colored sacking along with it in some of the barrels.

Q. You just packed everything back in the same barrels the same as it was?

A. Yes, sir; one barrel at a time, so we would make no mistake.

Mr. HANFORD: That is all.

Mr. MCNAUGHT: No questions.

Mr. HANFORD: If the court please, I wish to offer in evidence certified copies from the record of the proceedings of this court condemning the different lots of opium that have been seized—proceedings in causes 4783 and 4789, causes in this court.

Mr. MCNAUGHT: I believe we will object to those for the reason that they are immaterial in so far as this case is concerned. Whether

there has been or is a proceeding to condemn opium is immaterial as we view it. We are not parties in that suit. We don't see it has any influence one way or the other.

The COURT: Objection overruled; let them be admitted.

Mr. MCNAUGHT: We will save an objection.

The COURT: Make them Exhibits "H" and "I."

Mr. HANFORD: I will also offer in evidence a certified copy from the record in case No. 878, in Port Townsend, the case of the U. S. against Charles Foster, James Carroll, and L. L. Gale.

Mr. McNaught examines the document. We make the same objection, if your honor please, because it is immaterial.

Mr. HANFORD: I will explain to the court what this case is. The testimony has shown that certain opium was found at the time the Idaho was searched in a room that was represented as being the carpenter's room; that the carpenter was arrested and prosecuted before Judge Swan. This record shows that his bail was forfeited at Port Townsend at the regular term of court and judgment taken against Capt. Carroll as one of his sureties. We think
102 that it is a circumstance in the case to show that Capt. Carroll became surety for this carpenter, and that the carpenter failed to appear for trial and allowed default to be taken against him and his bail.

Mr. MCNAUGHT: No further suggestions to make, your honor.

The COURT: Objection overruled.

Mr. MCNAUGHT: We save and exception.

The COURT: "Exhibit K."

Mr. HANFORD: We offer in evidence the original inward manifest—the inward foreign manifest of the steamer Idaho delivered at the custom-house at Port Townsend on her arrival Dec. 26th, 1885.

Shown to Mr. McNaught.

Mr. MCNAUGHT: No objections.

The COURT: Mark it Exhibit "L."

Mr. HANFORD: We offer also in evidence the original coast manifest of the Idaho on her voyage from Alaska to Port Townsend in Dec., 1885.

Mr. MCNAUGHT: We object to that because it is immaterial.

The COURT: This is the voyage on which it is supposed that the steamer carried the barrels from Sitka to Kassan bay.

Mr. MCNAUGHT: There is no manifest of goods required where you are passing from one port to another port in that district. When you come out of that district into another, then one is required.

Mr. HANFORD: The steamer, we claim, was entitled and I think we can show that it is law—was required when she left Sitka to have a manifest of everything that she had aboard and took from that place. The defense in this case have shown by the answer of the captain that the barrels which were landed at Kassan bay were taken on board intermediate between Sitka and Kassan bay, but we are not conclude- by his statement in that regard. If these barrels were in fact on board when the steamer left Sitka they should

have appeared on this manifest after they were destined for Kassan bay.

Mr. McNAUGHT: There is a good deal more than that, if your honor please. They have propounded to us certain interrogatories which were answered, and the last one of those interrogatories reads as follows:

(Reads answer:) And there is no law and no regulation
103 that requires a steamer, for instance, in passing from Port Townsend to have a manifest of the goods that she is carrying from one place to the other.

(And further argument.)

The COURT: You contend that the law is, Mr. Hanford, that if a vessel were starting from Tacoma for Alaska she would be obliged to place on her manifest every article of freight that she took on board at Tacoma, although part of it was to be carried no further than Seattle or a part no further than Port Townsend? Those articles that were to be carried no further than Seattle, would he be obliged to enter them on his manifest?

Mr. HANFORD: No, sir; but I contend that when she clears from a custom-house, when she clears from Port Townsend for Alaska, she ought to have a manifest that would show everything aboard of her at that time.

The COURT: That is, having cleared at Port Townsend, she could not go and discharge freight at Bellingham bay and then proceed up to Alaska?

Mr. HANFORD: No, sir.

Mr. McNAUGHT: A very different case is presented, then—the case which the Government presents. It is in evidence in this case that Sitka, the place where the custom-house is in Alaska, is the last place where the steamer lands going north from Nanimo, and for that special purpose or reason the custom-house officers have been provided to travel on the steamer. They are allowed to run and carry their freight from one place to another in Alaska, and they do carry it constantly from one place to another in Alaska with the ship with the custom-house officer aboard; otherwise they could not do any business at all; otherwise they could not do a local business between Juneau and Sitka and between all of the points, after getting into Alaska Territory, before reaching Sitka, and the practice is and the records of the custom-house—the records of the custom-house and the records of these ships will show *show* that it has been the uniform practice to do a local business at all the local points in Alaska with the custom-house inspector aboard.

(Argument continued.)

The COURT: I am not satisfied as to what the law is. Let the manifest go in subject to the objection made. Mark it Exhibit "M."

Mr. HANFORD: If the court please, I wish to offer in evidence the answers made by Capt. Carroll to the interrogatories appended to our libel.

Mr. McNAUGHT: I presume they are already in.

104 The COURT: Very well.

Mr. HANFORD: I suppose it will not take any more time now than hereafter to read these to the court.

Mr. Hanford reads the interrogatories referred to and the answers of the same to the court.

After remarks at some length *pro* and *con.* the court was adjourned until 9.30 a. m. the following morning.

Part No. 3.

April 15, 1886.—Court opened pursuant to adjournment.

Mr. C. H. Hanford remarked that he was expecting a very material witness from Astoria, a Mr. Mitchell, to arrive on the evening boat and could not close his case until his arrival, and upon the completion of the examination of the witness that he then had should ask the court to adjourn the hearing until the 16th instant. Mr. McNaught objected to a postponement of the trial, and after the argument by counsel the court announced that he would grant the application of Mr. Hanford when the testimony he then had should be taken.

Mr. GILBERT RHODES, a witness for the Government, duly sworn.

Questions by Mr. HANFORD:

Q. Are you connected with the Port Townsend custom-house?

A. Yes, sir.

Q. What position do you hold?

A. Inspector of customs.

Q. Been holding that since the beginning of this year?

A. Yes, sir.

Q. Do you know the steamship Idaho?

A. Yes, sir.

Q. Did you take passage on the Idaho on her trip to Alaska in the month of January, this year?

A. I did, sir.

Q. What day did you leave Victoria?

A. I went on board on the morning of the 12th, I think,

105 at Nanimo. I went on board the evening of the 11th and we sailed on the 12th.

Q. Which point did the steamer first land at on her passage north?

A. Departure bay and New Tongas, and we then went straight to Casson bay; then returned to Pratts and discharged cargo.

Q. Is that the usual route of travel in going to Alaska?

A. I heard not. I heard it was customary to go to Pratts first and then to Sand bay.

Q. The steamer deviated from her voyage to go to Casson bay.

A. So I was informed.

Mr. McNAUGHT: We move to strike that out.

The COURT: Let it be stricken out.

Q. Who informed you that?

Mr. McNAUGHT: We object unless it was the captain or owners.

A. Every one of the passengers that had been that way before told me the next place would be Pratts. Then the crew also told me. I don't recollect any particular man that informed me. Most everybody I asked said that the next place would be Pratts.

Mr. McNAUGHT: We move to strike the answer of the witness out.

The COURT: I think it had better be stricken.

Q. State what occurred at Kasson bay; whether anything was put ashore or taken aboard; whether any passengers were taken.

A. A small sloop came along and two men came aboard about two in the morning.

Q. Do you know who they are?

A. I know that they came from Mr. Carroll's fishery.

Q. How long did they remain on board?

A. Probably ten or 15 minutes.

Q. Then did they go ashore again?

A. They went ashore in the sloop.

Q. Where was Capt. Carroll at that time?

A. He was in his state-room at the time, I heard, sick. I know that I did not see him on the voyage until I arrived at Sitka. That is the first that I saw him.

Q. Do you know whether these men had an interview with the captain?

A. Yes; I heard the purser, Mr. Downing, tell them to walk into the captain's room; that he wanted to see them. They did not know which way to turn, and he took one by the arm and showed them the way to the captain's room. They went in and
106 stayed there. I did not hear what they said.

Q. What time of the day did the steamer arrive at Kassan bay?

A. Half past three in the morning.

Q. What morning?

A. I think the morning of the 15th, if I am not mistaken.

Q. What time did she arrive at Nanimo?

A. Six o'clock on the morning of the 12th.

Q. Did you return on the same voyage?

A. Yes, sir.

Q. Did she stop on her downward voyage at Kasson bay?

A. No, sir; she stayed—the pilot told me that it was 17 miles or something about that; we did not stop there, anyway. I believe we dropped a canoe.

Cross-examination.

Questions by Mr. McNAUGHT:

Q. You stated that that was Capt. Carroll's fishery. How do you know?

A. It was always called that.

Q. Then you only know it from hearsay—that is all the way you know it, by hearsay and conversation?

A. The same as I know it was Kasson bay.

Q. That is what the people you talked with on the steamer told you?

A. Yes; I did not read it in a book.

Q. You did not have any conversation with the captain?

A. I did not see him.

Capt. H. F. BEECHER recalled.

Questions by Mr. HANFORD:

Q. At the time that you were at Kasson bay in making the examination of the fishery there and the warehouse, state what, if anything, you found or observed there as showing or tending to show any interest of Capt. Carroll in those premises.

A. I found several barrels with diamond C, Kasson bay.
107 I found two or three barrels J. Carroll, Kasson bay.

Q. In giving your testimony yesterday you stated that Capt. Carroll told you that he had a fishery in Alaska?

A. Yes; that was in December that he told me that.

Q. What time in December? State all the conversation and what occurred that caused him to give the information.

A. He came to me, that was the time we held the steamer there to search her, and it was my orders to Mr. Gardener to search and examine everything. Capt. Carroll offered to give ten thousand dollars bonds if I would not examine the salmon; there were three or four hundred barrels of packed salmon, salted, and he claimed that by opening them it would spoil them. He offered to give bonds in ten thousand dollars that there was nothing in them but salmon and as a personal favor. He said the price of salmon was very low, anyway, and that it would have a tendency to spoil the salmon, and he said he would give ten thousand dollars bonds, and so I let the salmon go on the Elder to San Francisco. I said, Where did you get it? He said, I have a salmon fishery in Alaska.

Q. Do you know or does the manifest of the steamship show what point in Alaska that salmon came from?

A. I did not know until this morning.

Q. Just look at the manifest, Exhibit M.

A. I did not examine the manifest on her arrival, not until this morning. It says in the manifest here "Kasson bay, 300 salmon."

Q. To whom was the salmon consigned?

A. It was consigned, I think, "to order," if I remember rightly.

Q. Was there anything further said in that conversation by Capt. Carroll as to what interest he had in it?

A. Well, he said that he did not wish to have the salmon opened, that it would spoil the salmon, that the price of salmon was very low, and he did not want the heads taken out, and he wanted it to go right to San Francisco, and that if I would let it go he would give ten thousand dollars bonds.

Q. You asked where he got it?

A. I said, Where did you get it, old man? I think he said, I have a fishery in Alaska.

Q. Do you know the usual route of the steamer on the Alaska route, whether she would go to Kasson instead of Pratts?

A. Only by hearsay.

108 Cross-examination.

Questions by McNAUGHT:

Q. In that conversation, Captain, did not Capt. Carroll say that he had an interest in a salmon fishery?

A. No, sir.

Q. Did not make any explanation about that?

A. He says that I will give ten thousand dollars bonds if you will not open the salmon; I will guarantee there is nothing in it, no opium.

Q. Do you remember his saying that he had advanced a lot of money on the salmon?

A. No, sir; I do not. He told me in a latter conversation that he had advanced money on the fishery, and that was the way he got it; advanced money to the owner of the factory, and that is the way that he got control of it.

Q. Did he say in that conversation that the parties to whom he had advanced the money still were in possession and running the factory, but were turning over these salmon to pay off the money that he had loaned them?

A. No, sir; I do not remember that.

Redirect examination.

Questions by Mr. HANFORD:

Q. When was it he told you he had advanced money on the fishery?

A. During the same conversation. It was the same morning. He was in my office most of that morning when the opium was found in the engine-room.

Q. He told you that in explanation to you as to how he came to have control of the fishery?

A. Yes, sir.

The COURT: Have you ever had any other conversation at any time with Capt. Carroll about that fishery?

A. Only at that time. I heard remarks about his running a cannery at Alaska.

The COURT: I wanted that conversation.

A. I had one conversation; I think it was in August he
109 landed a lot of salmon to go down on the Queen of Pacific from the Idaho, and I think he spoke about getting his salmon ready to ship down on the Queen. He was anxious to have them go down.

Mr. HANFORD: Do you know what point in Alaska these salmon came from?

A. No, sir.

Mr. MCNAUGHT:

Q. In these conversations did the captain ever tell you that he had advanced money on any other fishery up there?

A. No, sir. I only remember his saying that he had advanced money to the owner of the fishery, and that is the way he got control of it and had to foreclose on it.

Q. Do you know whether that mortgage was ever foreclosed or not?

A. I do not; I could not say.

Q. Do you remember his telling you *now* much money he had advanced?

A. No, sir; I do not think he told me the amount; it was none of my business.

Q. These were just casual conversations?

A. Yes; he was wanting to go, and he said it would damage the salmon.

Q. You do not pretend to repeat all the conversation that you had with the captain?

A. I cannot repeat it verbatim; there was a good deal coming up on my mind at that time.

Q. Do you remember who was present at the time you had those conversations on Sunday?

A. I could not state positively. Mr. Haines was present most of the time, and Mr. Gardener was present a good deal of the time during the conversation.

Q. Do you remember who was present when he said he would give a bond in the sum of ten thousand dollars not to examine the salmon?

A. Mr. Haines was there and Gardner. Gardener was in and out all the time.

110 E. A. GARDNER, a witness on behalf of the Government, sworn by the clerk.

Questions by Mr. HANFORD:

Q. What official position do you hold, if any?

A. Inspector of customs, Puget Sound district.

Q. How long have you held that position?

A. Since the first of July last.

Q. Where were you on the 8th of December last?

A. I was in Victoria.

Q. Did you see the steamship Idaho at Victoria that day?

A. I did.

Q. About what time did she arrive?

A. Half past nine a. m.

Q. Do you know on what voyage she was bound at that time?

A. Bound to Alaska.

Q. When did she depart from Victoria?

A. 12 o'clock midnight. I say 12 o'clock midnight. I only know that by hearsay. I was not there. I left Victoria the afternoon of the 8th.

Q. What time in the afternoon did you leave?

A. I think the steamer sailed at 2 o'clock.

Q. Do you know of any freight being taken aboard of the Idaho at that time?

A. I saw some lumber taken aboard.

Q. At what time of the day was the lumber taken aboard?

A. About 12 o'clock.

Q. Do you know when they finished taking it aboard?

A. No; I don't.

Q. Do you know whether they had finished before you left?

A. I do not know.

Q. Were you at Port Townsend when the Idaho returned from that trip?

A. I was.

Q. I wish you would state now all that you know of your own knowledge in regard to the search of the steamer Idaho at that time, what participation you had in *ti* or direction of the matter, and the results. Just give in detail all that occurred on the ship.

A. All that occurred aboard the ship?

Q. Yes; of your own knowledge in regard to the search, how the search was made.

111 A. I had charge of the searching of the ship.

Q. Who did you have to assist you?

A. I had all of the custom officers and a portion of the cutter's crew, about 25 or 30 longshoremen, and I placed a man in charge of the searching party in the engineer's department and placed one officer in charge of the steward's department. I looked after the officers in charge of these different gangs of men. I went aboard the ship after introducing myself to Capt. Carroll, and saying to him that I was instructed to search his ship, and told him that I wanted him to call the chief engineer and the steward and the chief officer, and I want you to say to the men that to keep out of the way while this search is going on, and he called them to him. He instructed them to keep out of the way, keep their men out of the way, take them from their quarters for the time being until we had searched the ship. The search continued longer than we expected; laster three or four days. We commenced searching the ship Saturday evening, the 26th. Some of the searchers found some 25 or 30 pounds of opium. The next day we found a larger quantity, and each day after that for two or three days we kept finding opium in different places in the ship.

Q. Were you present when any of it was found?

A. No; I was not present when any of it was found. As soon as they would find any they would send for me.

Q. How late did you continue the search Saturday night?

A. Until 12 o'clock.

Q. Do you know anything about this barrel here (referring to barrel in court-room)—whether it was found in the ship or not?

A. There was a barrel found in the ship. I don't know whether it is this one or not: I think this is the same barrel. The first I saw of it was about half past eight or nine o'clock.

Q. Just describe the place in the ship where you first saw it.

A. It was in the lower hold forward of the main hatch; probably fifty feet from the main hatch in the lower hold.

Q. What was there surrounding it?

A. Oil barrels.

Q. What particular things did you take notice of—the barrel and its surroundings?

A. The barrel had the head taken out of it. The contents
112 had been removed, and leading from the barrel aft was a trail of chaff of some kind. I did not examine it and see what it was—packing evidently that had been in the barrel or had lead from this barrel to the starboard side. The barrel was on the port side, and this trail of chaff led to the starboard side abaft the main hatch, and there was a hole that had been cut in the bulkhead—the head of the barrel—with a couple of newspapers. I had the barrel taken out and sent ashore to the custom-house with the newspapers.

Q. Who called your attention to the newspapers?

A. No one called my attention to the newspapers; they were sticking in the barrel head. I followed the trail to where this barrel head was, and the papers were there.

Q. Can you identify that papers?

A. I don't know that I could identify the papers. I remember the date of one of them. December 5th, I think, was the date on one of the papers. The other I have forgotten.

Q. Do you know what paper it was?

A. Victoria paper—Colonist, I think.

Q. Is that the paper? (Paper handed witness.)

A. That is the Daily Colonist of December 5th. That is the paper, I think.

Q. Was there anything else corresponding with the paper you found?

—. This looks like the same one. I should say that it is the same one.

Q. We offer this paper in evidence.

Mr. McNaught: Is that the one offered yesterday?

Mr. Hanford: No, sir.

Q. Do you know whether the searchers had been about the same part of the ship where this barrel was the night previous—do you know where they were at work at the time you dismissed them?

A. I do.

Q. State.

A. The barrels consisting oil in the lower hold was in tiers, and when they knocked off at 12 o'clock they had moved—I don't know just how many tiers of barrels, but they were withing about three

tiers or rows of the place where this barrel was. The men had gone forward, but had not noticed anything peculiar about *about* these barrels. The next morning when we went down there
113 it had been opened during the night. I think it had been opened there from the fact that it was standing on the end in the morning.

The COURT: You speak of the barrel being empty. Was there no chaff or packing in it?

A. No, sir.

Q. Was there anything else to indicate that it had been opened during the night, or had there been any change there in regard to the situation of the barrels during the night indicating that any one had been there during the night?

A. Well, if it had not been opened during the night the men at work would have discovered this trail of chaff, which they had not seen at night. I had men on board all night long.

Q. Was this trail along the floor or not?

A. Over the other barrels.

Q. Barrels that had been examined?

A. Yes. We bored each barrel with an auger and tried it.

Q. Did you have any conversation with Capt. Carroll during the time this search was going on?

A. I had many conversations with Capt. Carroll.

Q. I wish you would give them in detail, as well as you remember them now, whatever conversation you had with him in regard to that search and the object of the search and in regard to the freight that you found in the steamer.

A. It would be difficult to give all the conversations in detail.

Q. Well, give all the conversations you had in reference to the conduct of the crew and men in the steamer, if you had any subsequent to the first one you had mentioned, when you had him request his men to keep out of the way.

A. During Sunday some of the crew *pre*sisted in coming into that part of the ship that we were searching. I reported it to Capt. Carroll, and he would go and order the steward, if it was the steward's men in the department. He would go to the steward and tell him to take these men out of that part of the ship until we got through with the search; but there was some little insubordination in that respect. The men would come back. Any conversation that I had with Capt. Carroll was entirely satisfactory to me. I could find no fault, only his failure to keep these men out of that part of the ship.

Q. How many times did you report to him that you were being interfered with?

114 A. During the search probably two or three times.

Q. Did you have any conversation with him or hear him make any remarks in regard to the steamer's port being opened during the night and anything thrown overboard?

A. Yes; I did.

Q. Give the particulars of that.

A. I do not remember what date, but it was either Monday or

Tuesday. When I came on deck in the morning Capt. Carroll was very anxious to get the ship away and proceed on his voyage, and in the course of the conversation he stated that there was nothing more aboard the ship, certainly; that we had examined every part. After he told me that he said he did not know, but he was afraid that something had been thrown overboard during the night; that he was taken sick, feeling badly in the night, and got up and slipped his feet into his rubbers and walked aft, and when he was about midships he heard something go into the water, and he looked over and he saw a ray of light where the port was partially opened; that he immediately ran down-stairs and found the port closed, and that there was no one there. His inference was that they had thrown some opium overboard—some one had—during the night.

Q. That was the substance of that conversation?

A. Yes, sir.

Q. Which port of the ship did you refer to?

A. The after port, on the port side of the ship.

Q. Did it open on the side or astern?

A. It opened on the side.

Q. Did you examine that port?

A. I did.

Q. What was its appearance as indicating whether it had been opened or not?

A. I could not say that it had been opened. It did not look to me as though it had been opened.

Q. Describe the appearance and how the port is closed and made fast.

A. I am not mechanic enough to give you a description of how it fastened.

Q. Is there a bar to hold the port in place when it is closed?

A. I do not think there is. I did not see any.

Q. Is it drawn up with bolts or screws?

115 A. Yes; bolts and screws and large nuts; there is a large screw.

Q. Did you take notice of that and examine its appearance?

A. No; I did not.

Q. What day was this he reported this?

A. I was trying to think of the day. I do not remember whether it was Monday or Tuesday.

Q. Was there anything done in consequence of this information the captain gave in regard to employing a diver to examine the bottom of the bay there?

A. Well, we instituted a search and the collector had a submarine diver partially on that statement and because we were satisfied that we had not got all the opium. We made this search before our man reported from Portland; before we heard the result of his search there.

We made the search in order to be sure.

Mr. McNaught: We object to the statement that he was satisfied.

The COURT: You can state the facts.

Q. Were you there at the time the submarine man was at work?

A. I was there a part of the time.

Q. How much time did his search occupy?

A. I think he was there two days. I was there one day. He continued his search one day after I left.

Q. Did he search in the immediate vicinity of where the steamer lay at the time?

A. He did the day I was there.

Q. Did he report as finding anything that appeared to have been thrown overboard from the ship?

A. He did not.

Q. Were you present when he came up during the time of searching?

A. He came up once or twice.

Q. You say that he brought up nothing that came from the ship?

A. Well, I don't know. I saw him bring up an article of toilet furniture. Whether it came from the ship or not I do not know.

Q. Is that all he brought up?

A. Yes, sir.

Q. In making the search of the ship, did you find any freight there that appeared to be salmon barrels or barrels of salmon?

A. I did not handle the barrels.

116 Q. Did you have any conversation with the captain in regard to barrels of salmon?

A. I did, but it was on deck. These barrels had been discharged from the ship; they were in the freight-house awaiting the sailing of the San Francisco steamer.

Q. Discharged after her arrival that time?

A. Yes, sir.

Q. Now state what conversation, if any, you had with Capt. Carroll in regard to the barrels.

A. I had instructed the men to search these barrels; not particularly these barrels, but these with other barrels. Capt. Carroll came to me and said, If you have those barrels examined, I hope you will get a man that understands it, so that they will not be spoiled, so that the salmon will not be spoiled. To open them and examine them and then rehead them requires an expert; a man that knows what he is doing. I hope you will get such a man if you do that. He explained the price, etc.; that he would sustain financial losses if there was not some care exercised.

Q. Did he claim that it was a matter of personal interest to him?

A. He told me these were his salmon.

Q. Do you know where they came from?

A. I do not.

Q. Were they marked or branded so as to show where they came from?

A. I did not examine them; they may or may not have been; I do not know; I did not examine any of the barrels; I simply saw a lot of barrels; I did not examine any of them.

Q. Where were you at the time that the Idaho arrived at Victoria on her return trip from Alaska in January?

A. I think that I was in Port Townsend.

Q. Did you go to Victoria before the steamer had left there, coming from there to Port Townsend?

A. Yes, sir.

Q. Do you know how long she remained there in Victoria before coming over?

A. No; I do not; I do not remember the date of her arrival or the date of departure; she was there two or three days.

Q. Did you see Capt. Carroll at Victoria?

A. I did.

Q. How long does the steamer usually remain at Victoria?

A. The Idaho?

117 Q. Yes; coming this way from Alaska?

A. I don't know.

Q. State, if you know, whether there was any unusual detention of the ship there and the cause of it.

A. There was an unusual detention. She had been on the rocks on that trip, and they had a submarine diver examine her bottom.

Q. At Victoria?

A. Yes, sir.

Q. Did you have any conversation with Capt. Carroll in regard to the ship at Victoria?

A. I did; yes, sir.

Q. Just state what conversation you had with him.

A. I asked him the particulars of her going on the rocks and how badly he believed her to be damaged.

Q. What did he say?

A. He told me that he was sick when she went on the rocks. I don't know the name of the place. He gave the name of the rocks and the time and circumstances; that he was sick in his berth and the pilot was in charge; told me that it threw him out of his berth; that he went on the bridge after hurri-dly dressing himself, and described the going onto the rocks; but it did not impress me very earnestly, and I don't remember just what he did say about it, but I know it was a description of this occur-ance.

Q. Was there anything said as to *his* what his purpose was or design was about continuing the voyage from there to Port Townsend or going anywhere else or remaining there for repairs?

—. I think there was something said about his being guided by the report of the diver, if the diver reported that the ship — damaged so that he would have to go on a dry dock that he would have to do that; otherwise he should go on his regular voyage to Port Townsend.

Q. And finally he did pursue the voyage?

A. Yes; I think he did.

Q. Did you come over from Victoria on the Idaho?

A. I did.

Q. Who made the seizure of the Idaho?

A. I did.

118 Cross-examination.

Questions by Mr. McNAUGHT:

Q. You say that you had charge of the search of the Idaho, at Port Townsend, in January last, at the time these various quantities of opium were found on board, or was it in December?

A. That was in December.

Q. When you went to search that ship on Saturday, you went to the captain and told him what you wanted to do?

A. I did; yes, sir.

Q. And did he not call up his officers and give you an introduction to them?

A. Yes, sir.

Q. Did he not in that conversation instruct his officers and crew to give you all the assistance possible in making that search?

A. Yes; he did.

Q. You say that as the search progressed you found some of the crew interfering with your men?

A. No; not interfering. I did not state it that way.

Q. Well, in the way?

A. We asked that the crew remain away from their quarters while we searched those quarters. For instance, while searching the steward's department——

Q. Was it not difficult for the crew to remain out of their quarters while you searched the ship four or five days?

A. I say that the search lasted longer that contemplated.

Q. You found in the meantime that some of the crew were not keeping their places or quarters as you wanted them to, and you made some complaint to the captain?

A. Yes, sir.

Q. What did the captain do about it when you made the complaint?

A. He went to the engineers' department and told him (if it was his department) to carry out his instructions and to keep his men away from that part of the ship.

Q. Now, did he not do more than that? Did he not go to the steward and make him drive his men up to the upper deck?

A. On one occasion at night he did that. They slept in the night in the room on the upper deck.

—. You say that there was a little insubordination on the part of the men on board. What do you mean by that?

A. Well, these men had had instructions to stay away
119 from these quarters, and they did not obey the instructions. They came back. I call that insubordination.

Q. Was that before or after the captain ordered them on deck and made them sleep on deck that night?

A. That was before.

Q. After he had taken that step with the men, then you had no further trouble after that?

A. No; we had no further trouble, but that night we finished the search. It made it unnecessary for them to stay away after that.

Q. This report that the captain made to you about hearing something, as he supposed, fall overboard in the water, hearing a splash, did he not in that same report that he made to you say that when he ran down—that he immediately ran down and when he got there he found that there was nobody there?

A. That was my testimony.

Q. But in making the search the diver did find something down there that might have been thrown overboard and made a splash in the water?

A. I presume that it was thrown overboard at some time. I don't know when it was.

Q. You say that when you went there the next morning that you found no evidence that the porthole had been opened. Could you tell from the examination you made the length of time that that porthole had been closed?

A. No; I could not.

Q. I did not examine it closely enough to tell that.

Q. You do not claim to be a seafaring man?

A. No, sir.

Q. And don't know much about a porthole, whether it had been opened or closed in 24 hours?

A. No; if I had examined it closely I think I could tell whether there had been a recent use or not. I did not so examine it. I am not a steamboat hand, but I can tell whether the thread has been used little or not.

Q. Now, you say that the captain wanted you to let that salmon go without searching or have some competent man make the examination of the salmon.

A. Yes; that was my testimony.

Q. And he said that he wanted that so as to avoid injury as much as possible to the salmon. Did you testify that he said that salmon was low at that time?

120

A. I did not.

Q. What did he say, if anything, about that?

A. The only statement that he made was the loss by damage.

Q. Did he not say in that conversation that salmon was pretty low price, and if they were injured that he would loose money on it?

A. He may have said so. I do not remember it.

Q. What did you do about the salmon; did you examine them?

A. No, sir; passed them without examination.

Q. You relied upon what Capt. Carroll said to you about the salmon?

A. He told me that they were his salmon.

Q. But you relied upon what he said about those barrels not containing opium and let them pass?

A. I don't know that; I don't know that he told me that they did not contain opium. I don't know that he made any statement in connection with those barrels about opium.

Q. Did he have any talk with you about giving bond not to have them examined?

A. I don't recollect that he had. I don't know that he said anything about a bond, but he told me they could be examined in San Francisco.

Q. The captain was about there the most of the time when you were making the search, either about the ship or the custom-house?

A. Yes; all the time.

Q. Now, did not the captain do everything there that he ought to have done in rendering you assistance in finding whether or not there was opium aboard of that ship?

A. I think that he done all that he could do. I think that these men in returning to quarters were in disobeyance of his orders.

Q. Now, when was it you had this conversation with him about this ship going on the rocks?

A. That was at Victoria, on her next voyage.

Q. You testified, I believe, that he said he was sick on the upward voyage and the pilot had entire charge of the boat?

A. That was the particular time when she went on the rocks up near Sitka.

—. Did he not say to you that he was sick on that voyage going up and was not there to take charge of the boat?

121 A. He said he was sick on the voyage up. I do not think he said that he was not able to take charge of the boat. He might have; I do not remember the conversation fully now.

Q. You said something about his going to have her examined by a diver to see if she was injured. Do you know whether he did have her examined there at Victoria?

A. Yes, sir.

Q. He did?

A. Yes; at least I saw the diver under the water working, and I guess he was examining her bottom.

Q. After that examination was made, then she went on her voyage?

A. Yes, sir.

Q. Came over to this side and you seized her?

A. Yes, sir.

Q. You were at Victoria on the 8th of December? You were a custom-house inspector?

A. Yes, sir.

Q. And there was some lumber taken on board of the steamer. Do you know how much of the cargo she took on that trip?

A. No; I could not testify as to the amount of cargo that she took on that trip. I looked over the amount of freight on the dock—the Alaska freight—but I could not testify as to the quantity.

Q. Now, from Victoria where does she make her first landing after leaving Victoria, going north?

A. I could not answer that; I only know by hearsay.

Q. Ever been on her?

A. Never; no.

Q. Don't know, as a matter of fact, that she lands at Nanimo?

A. I don't know, as a matter of fact, that she does anywhere.

She may go out in the stream and anchor. I don't know anything to the contrary to my own knowledge.

Q. You never have gone with her after she leaves this collection district?

A. Never have.

Q. Do you know whether in going north from Victoria she carried a custom-house inspector?

A. I do not; I only know that by hearsay. I heard that there was one on board her. I don't know him; never met him.

122 Q. Where were you on the evening of the 8th of December?

A. I was in Seattle.

Q. Now, these different lots of opium that were found, there was one or two packages with the carpenter?

A. One package with the carpenter—that is, one valise.

Q. In the carpenter's room?

A. I believe that it was found in the carpenter's room.

Q. And some with the Chinese cook on board?

A. And some in the galley or kitchen.

Q. The remainder was below principally in the engineer's department?

A. There was 148 pounds found in the engine-room, aft of the boiler, in the bilge; three or four or five hundred pounds found between decks, in the coal-bunkers, in a little department that was prepared there.

Q. You were about four days making the search?

A. Yes, sir; four days making the search.

Q. Now, sir, do you know of anything of your own personal knowledge connecting Captain Carroll with any of that opium?

A. No; I do not.

Q. Where was the first conversation you had with Capt. Carroll about searching the ship?

A. In the general office, in the custom-house.

Q. Then did not Capt. Carroll take his men and go aboard of the ship with you?

A. He did as soon as he was ready to go.

Q. He remained at the custom-house until you were ready to go down with him to search the ship?

A. He did.

Q. And did he not call up his officers and give them in the instructions you have mentioned before you took possession of the ship?

A. I asked him to give his officers that instruction.

Q. He did it?

A. He did it at my request.

Q. But remained in the custom-house until you told him you were ready to go down and search the ship?

A. Yes, sir.

123 Q. How much of a cargo was aboard at that time, of the ship?

A. There must have been from three to four hundred tons of coal,

four or five hundred barrels of oil, quite a quantity of hides. It was pretty well loaded; she had a pretty full cargo.

Redirect examination.

Questions by Mr. HANFORD:

Q. I wish to go into some matters that I overlooked. Have you ever visited any of the opium factories at Victoria?

A. I have.

Q. Do you know how many factories there are there?

A. There were eleven when I was last there.

Q. When was that?

A. In January—no, I think that I was there in February.

Q. Are you acquainted with the form of packages in which prepared opium is put up in Victoria and the kind of labels that they use?

A. I am quite familiar with them.

Q. Do you know a China house in Victoria such as Tai Yuen?

A. I do.

Q. What business is carried on in that house?

A. China merchandise and importers and manufacturers of opium.

Q. What is the form of the package that the opium in that house is usually put up?

A. It is put up in tin vessels that hold a little less that half a pound. They are called five-teal tins.

Q. How are these packages marked or labeled?

A. On the *said* of them is a red label, that is all in Chinese. On the other side there is a label of light color, on which the firm name of Lai Yune is printed in English.

Q. Anything else beside the name of Lai Yune printed in English?

A. Well, I think that "Manufactured by the well-known firm of Lai Yune," giving a little Americanism to it.

Q. Look at Exhibit A and state if that appears to be the label used on opium prepared in that house?

A. I do not think I ever saw one like that before; that is
124 "very old prepared opium." Yes, that is the style of the label. I did not recognize the English reading; it was blurred so that I could not see what it was. That is the style of label that is issued. That is the lab*le* used by that firm.

Q. I wish you would state what efforts you have made, if you have made any, to secure the attendance or find the two men who were at Kasson bay at the time Mr. Beecher made the seizure of this opium, for the purpose of having their testimony at the trial of this case.

A. I have spent three weeks in California on the trail of these men, the men that were coopers at Kasson bay, that were there when the 14 barrels of opium were seized by Mr. Beecher.

Q. In going to California and pursuing them there, were you acting on the best information that you had as to where they were?

A. Yes, sir.
Q. Did you succeed in finding them or seeing them?
A. I did not see them, but I heard of them.

Mr. McNAUGHT: — would like to enquire if you intend to connect the two men that Gardner was hunting with the two men that Mr. Rhodes testified to?

Mr. HANFORD: I think that is the fact.

Mr. McNAUGHT: It seems that Mr. Rhodes knew that they were at Kasson bay a long time after the cutter visited that place.

Q. You s-ent a month; what month? When did you begin that pursuit and when did it end?
A. I think I arrived in San Francisco the 14th of last month.
Q. The 14th of March?
A. Yes, sir.
Q. And when did you return from that pursuit and arrive at Seattle?
A. I arrived at Seattle on the 10th of this month.
Q. What places in California did you visit?
A. From San Francisco I went to Oakland; from Oakland to Sacramento, and from Sacramento to Red Bluff.

125 Rec*t*oss-examination.

Questions by Mr. McNAUGHT:

Q. This is a sort of an old English label, is it not?
A. No; I do not think it is an English label. I think that it is a China label.
Q. You spoke of it having some Americanisms.
A. That part of it is English that I refer to.
Q. Have you ever seen a label of this kind any other place than in Victoria?
A. Yes; I have seen it in a good many other places.
Q. Now, you have been in this opium-house and you say that there is 11 where they manufacture opium.
A. I do.
Q. Have you been there pretty frequently?
A. Yes, sir.
Q. Did you ever meet Capt. Carroll in any of these opium-houses?
A. I don't think I ever did. No, sir; I never did.
Q. Did Capt. Carroll ever knock you down *to* any of those opium-houses?

Mr. HANFORD: I object. That is not germa*in*——

The COURT: That is germa*in* to the answer that he has made. He just answered that he never saw Capt. Carroll in any of those opium-houses.

HANFORD: That a-swer is responsive to a question that is not material to the case.

The COURT: The witness should be allowed to answer the question.

Q. What do you say to that?
A. Repeat the question.
Q. Did Capt. Carroll ever strike you and knock you down in any of those opium-houses?
A. Never there or anywhere else.

Mr. HANFORD: I have nothing further to say on my side of the case except the testimony of Mr. Mitchell and the manifest of the Idaho from Sitka. I will offer those newspapers in evidence.
The COURT: Let it go in evidence, marked Exhibit "N." Are you disposed to go on with your side of the case, Mr. McNaught?
Mr. MCNAUGHT: No, sir. When the case of the United States is closed there are certain branches of it I shall certainly move
126 on and I prefer to let them complete it.

APRIL 16TH, 1886—10 o'clock a. m.

GEORGE MITCHELL called as a witness on behalf of the United States and sworn.

Mr. HANFORD:

Q. Do you know Capt. Carroll?
A. Yes, sir.
Q. Do you know the steamship Idaho?
A. Yes, sir.
Q. Were you ever a seaman on the Idaho?
A. Yes, sir.
Q. During what time were you on the Idaho?
A. October, November, and December.
Q. Last year?
A. Yes, sir.
Q. Was you on the Idaho at the time she was at Victoria bound for Alaska, in December?
A. Yes, sir.
Q. Was there any freight taken aboard at Victoria?
A. Yes, sir.
A. What was taken aboard?
A. Several things.
Q. Can you remember any kind of freight that was taken aboard?
A. I can, sir; yes, sir.
Q. State what you can remember.
A. We got into Victoria, if I am not mistaken, some time in the forenoon; some time about between 10 and 11; somewhere around there; about that time, I think; I don't know, it is so long back. I think it was about that time we took aboard lumber. I know we worked at lumber all the afternoon. The lumber was for Juneau, for Father—a priest in Juneau, anyway; I don't know his name; it was directed to him, anyway—and there was some boxes and some nail kegs, and I know that I took aboard some beef, and there was some stuff come down, I believe it was stores, I don't know; I did not look into the barrels; I could not see. I never looked into the barrels that came aboard in the evening and I helped to get it

aboard. What it was I don't know. I think that was all that come aboard, to my remembrance.

127 Q. What time in the evening did these barrels come aboard?

A. Between six and seven or about that time—between 6 and 7, I think.

Q. Do you remember the number of barrels?

A. I am not positive; I could not swear to that.

Q. Give your best remembrance as to the number—about how many?

A. Well, I should judge there were 12 or 14. I could not say to swear. There were about 14, I should judge.

Q. Were the barrels marked; do you remember the marks on them?

A. I was not up when they went down below forward. They went down by the steerage and went down below in the hold. What they were marked I could not say. They were put down below forward. I never went down through the steerage hatch.

Q. Describe the appearance of the barrels as well as you can as regards color, whether they had wooden or iron hoops and any paint about them.

A. Well, the barrels, they were of different sizes——(cut short).

Q. Different sizes?

A. Yes, sir.

Q. Did they appear to be old or new barrels?

A. Well, they were—of course, a barrel, if it is used, looks old. New barrel, if it has been rolled in the dirt, it looks old. I should judge they were old barrels; I could not say they were new.

Q. Were they painted or unpainted?

A. The heads were painted red.

Q. Were they iron-hooped?

A. I could not swear whether they were all iron or not.

Q. Some of them were?

A. Some were; yes, sir.

Q. Did they all come there in one load or at different times?

—. ——.

Q. Two different dray-loads?

A. 2 dray-loads; yes, sir.

Q. How soon after arrival on the dock on the drays were they taken aboard?

A. After they arrived there from the dock?

Q. Yes. After the drays arrived how long was it before they were taken ab-ard?

A. The first load, sir, I suppose it must have been 15 or 20 minutes, because the men were down below. I was on the dock when they came there first—when the first load came down. I suppose it must have been 15 or 20 minutes after it arrived on the dock.

128 Q. Was the other load taken aboard at once?

A. We were ther-; yes, sir.

Q. Who called the men up to take this freight?

A. That I could not say, sir; I could not say whether it was *my*

Wilson or Mr. Craig; I could not say which one of the two. It was one of them called to us to turn too and come and take the things aboard.

Q. Was Mr. Wilson one of the officers of the ship?

A. Yes, sir.

Q. Which one?

A. The 3rd.

Q. Was Mr. Craig the 2nd officer?

A. Yes, sir; the 2nd officer.

Q. Do you know w-ere Capt. Carroll was when the first load came there?

A. Well, just before that I went to the dock; I was on the dock, I suppose, 20 minutes to half an hour before that. There was a half-breed woman down there, and she was full, and there was lots of fun on the dock. Two or three went on the dock to see the fun. I saw Capt. Carroll on the dock there. I don't know whether he went uptown or aboard the ship; I could not say that; I would not swear to it.

Q. Did you see him about there after the dray arrived with these barrels?

A. No, sir.

Q. Did you hear him say anything to yourself or to any of the officers or crew of the vessel in regard to any more freight coming?

A. No, sir; I could not swear to that.

Q. Did you hear him say anything in regard to these barrels?

A. No, sir.

Q. Did you go with the steamer to Alaska that trip?

A. I did, sir.

Q. You assisted in taking these barrels aboard at Victoria?

A. I don't know what barrels you have reference to. I helped to take some barrels aboard.

Q. The barrels you have been talking about, you helped to take them aboard?

A. Yes, sir.

129 Q. Did you assist in landing those same barrels afterwards at any place?

A. Yes, sir; I must have done it if they were in the ship; yes, sir.

Q. Where were they landed?

A. Those same barrels?

Q. Yes, sir.

A. That is, I could not swear in one sense of the word, sir. We have lots of freight to Alaska. I helped to take it off if it was on the dock. Of these places we went to—in two or three places, Wrangle and Sitka—in Wrangle I used to tend the yard-arm fall. In any other places I was on the dock and landed freight. I might have handled those barrels and I might not, because tending the yard-arm fall (hesitates)—there is a rope to sling them through, and we pass them down with a rope.

Q. Were any barrels landed from the Idaho on her upward trip either at Sitka or at any place before you reached Sitka?

A. Any place (hesitates)? There is lots of freight for Wrangle.

Q. Were any barrels landed there?

A. Yes, sir; yes, sir; there might be barrels landed with the freight. It is hard for a person to remember barrels in so much freight. It is freight, general merchandise. It is hard to remember any. If the barrels are in amongst it you could not tell. The freight for Wrangle is put in by itself and comes out by the marks.

Q. Do you remember of any barrels that appeared to be like these or that might have been these barrels that were landed at Wrangle?

A. Well, yes, sir. I know some barrels when we went to Juneau. I am on the dock in Juneau, and they used to call me the Indian herder. The mate sent me up to the warehouse to clear the warehouse out to put the freight in. I would not be certain, maybe it was 80 or 90 barrels that we wheeled out of the warehouse. I would not be certain, maybe it was 80 or 90 barrels that we wheeled out of the warehouse, and some barrels that we put on the outside of the warehouse to make room for the freight. They were left on the dock until we came back, and then that came on board after we come back from Sitka.

Q. Do you know what freight was put out at Wrangle?

A. At Wrangle? No, sir; I do not.

The COURT: It was Juneau you were speaking of at last?

A. I am talking of Juneau. I say——(cut short).

130 Mr. HANFORD: Do you know what freight was put out at Juneau on your outward trip?

A. No, sir; nor half of it. I say I would have a big head. I believe there was over 250 tons of freight.

The COURT: There is where the salmon barrels were on the outside?

A. Yes, sir; at Juneau. When we went up they were there in Juneau, on the dock. I was sent up to clear out the warehouse to put the upward freight in, and we wheeled them out on the outside of the warehouse.

The COURT: The question is, What did you land there?

A. That is a hard thing to say, because there is so much freight goes to Juneau at that time of year; it is general cargo; it is provisions of every description.

Mr. HANFORD: Did the steamer go into Cassan bay on her upward trip?

A. Yes, sir.

Q. Land anything there?

A. Yes, sir.

Q. Do you remember what she landed there?

A. Well, there was a little of everything, sir. There was flour and cracker boxes, I know that. There was all we could get out on the up trip. We could not find the remainder of her freight going up and so the capt. remarked that we would call there coming down, and to get the salmon ready for coming down.

Q. Who did he tell that to?

A. The foreman of the warehouse.

Q. Do you know that man's name?

A. That I don't know, sir——(cut short).

Q. How many white people were there at Casson bay?

A. 3 to my knowledge; if there was any more I don't know. I know two of them personally.

Q. What were their names?

A. Martin was one and the other fellow is a German or Swede or Norwegian. He used to work in tubbs, in Portland. The cooper, I don't know his name.

Q. Do you know where those men are now?

A. I do not.

Q. Where did you last see them?

A. I saw them in Casson bay.

Q. Did the steamer go into Casson bay on her return?

A. Yes, sir.

131 Q. What was done in regard to putting off or taking on freight at that time?

A. When we arrived, sir, we turned to and took in salmon. After we took the salmon in—got the rest of the salmon in—we put the freight out—the remainder of the freight.

Q. What freight was put out there?

A. There was some boxes, some flour, and some barrels.

Q. How many barrels?

A. There might have been 16 or 18, because t-ere was some crackers, and these barrels we took aboard in Juneau went out there. Outside of these salmon the salmon was kept in and this stuff went out.

Q. The barrels you are referring to, where were they taken aboard the steamer?

A. In Juneau the barrels that we took out there, they came aboard in Juneau, because when we wheeled the salmon outside it was snowing that morning, and a man named Sissons—I believe that is his name—I saw him last October in Sitka. He had some furniture there, and he wanted to get that out. His furniture, I believe I heard the mate say, was shipped for Victoria, and he wanted Mr. Wilson to get it out, for he said it is checked through for Victoria.

Mr. McNAUGHT: I think I will object to these conversations.

The COURT: Objection sustained.

The WITNESS: He wanted to get this furniture out. He said it was Sunday, and I know then I took a man away from him to go and sling some furs and get the furs out of the warehouse. I come up and there was just two here to sling the barrels alone. They come down and began to kick about having to sling the furs alone. They were in bales. I don't know how many sling loads there was. There was quite a number. He says, "It is Sunday. My men have been up all night working, and I am going to get them off as soon as I can. They have got to be on the way tomorrow night." Them barrels come down and they were all covered with snow. It was snowing at the time, and it was pretty cold. How

many sling loads I forget. There was one barrel of salmon we could not take. We put that back because it was broke. It was bilges. The bilge was broken out and we would not take it
132 on account of the liquor coming out.

Q. Do you know what was in the barrels that were landed there at Cassan bay?

A. No, sir; I did not look.

Q. What was the appearance of the barrels? Were they marked in any way?

A. That I could not swear.

Q. How did they correspond with the barrels that were taken on board in the evening at Victoria before you left?

A. Well, that is a question I cannot answer.

Q. You saw them, didn't you?

A. I saw them, well, yes, sir; I handled some of them in Victoria, but them—I handled them all in Juneau; but then a man cannot swear to the barrels in the steamer coming up in the freight. He handles lots of them.

Q. Do you know what place in the ship the barrels were stowed—the ones taken aboard at Victoria?

A. Yes, sir.

Q. Did you see them when they were stowed away?

A. Yes, sir.

Q. Just state what part of the ship they were put in.

A. They were put down in the lower hold, sir.

Q. Which end of the shop?

A. About midships.

Q. About midships?

A. Yes, sir; forward of the main hatch.

Q. Is that near where the coal-bunkers are?

A. No, sir; not in the lower hold, it is not. The bunkers are 'tween decks. We take coal in the lower hold.

Q. Where was the lumber stowed?

A. Some on the upper deck, some in the lower hold, and some 'tween decks.

Q. Near these barrels any of it?

A. Yes, sir; we put some in these barrels that come aboard at Victoria on top of the lumber.

Q. Some on top of the lumber?

A. We made room for taking more coal. Capt. Carroll was down in the lower hold. He said to make room for taking 100 tons more of coal.

Q. Where was that?

133 A. Where was that, sir? In Nanimo.

Q. Did you hear him give any directions in regard to these barrels at the time they were getting ready to take in coal?

A. I heard him make a remark; yes, sir; I heard him say that he had been 2nd mate of a ship one time; that it was a long time since he had been mate, but he used to stow freight himself. "It is a long time ago," he says. "Put one of these barrels here (illus-

trating), and put this barrel there (showing), and we will make a little room for coal.

Q. Were these the same barrels that were taken aboard in Victoria?

A. I guess so; yes, sir; some of them; yes, sir.

Q. Do you know whether those were the same barrels—those taken aboard at Juneau were the same barrels that were put on the downward trip at Cassan bay?

A. No; that I could not swear to.

Q. Do you remember of his saying anything more in regard to the moving of the barrels at that time, anything further than what you have stated on their going into Casson in regard to handling them?

A. Not to my recollection; not now.

Q. Do you know where Capt. Carrol- was when the barrels were laded at Cassan bay?

A. Yes, sir; on the dock.

Q. Did he see toese barrels go out?

A. He was there when all the freight came out and when all the freight went in (hesitates); no, not all the time, sir; excuse me; I tell a lie, because there was a lady came down; a young lady come aboard and went to the purser's room, and from there she went to see the Capt. and went to his state-room; he and the purser went into the state-room together; they were there together, I suppose, 10 or 15 minutes, and he came on deck with her and helped her over the gangway; he was on the dock the remainder of the time till the ship got away.

Q. Did you hear him give any directions in regard to the handling — the barrels, telling the men to be careful, or anything like that?

A. I have, several times, sir. Of course it is natural for Ind-ans to get hold of anything and handle it pretty rough. He will say, "Handle that stuff careful." I heard him make that remark.

Q. In regard to the barrels that were landed at Cassan bay?

134 A. Yes, sir; anything there. It was in regard to boxes. If a man lets a box of anything else fall he will say, "Be careful there; be careful there." I have heard him make that remark several times.

Q. Are you able to identify any of the barrels that you have seen in any other place before?

A. Yes, sir; I should think I could, one.

Q. Describe that barrel.

A. I know it come pretty near slipping out of the slings at Juneau (showing); a barrel about that size and about that high; a fat fellow with a big bilge to it; it is a thick barrel; a short one; about that length and about that high, I should judge (showing); a stout one; you could hardly get hold of the chimes of it with your fingers.

Q. Where did you see that barrel first?

A. That is (hesitates), the first I recollect of seeing it particularly was in Juneau, because it slipped out of the sling in Juneau. We

sling it in a sling, generally 3 barrels at a time or 2. We put 2 in the short sling, and it slipped instead of going up square—2 together. It slipped up on top and we lowered it again. If you don't get the sling exactly straight in slinging or shaking, it will slip on top.

Q. Did you see a barrel like that one among those taken aboard at Victoria?

A. There might be several of them.

Q. Do you remember se-ing one like that?

A. Not in Victoria; no, sir.

Answer continued: Not to my knowledge. I remember it in Juneau because, as I tell you, about the slinging of it. We were slinging two barrels. We had a short sling. We generally sling three. We had a short sling and we put these two in together. I generally take the sling myself. Me and another man generally have the sling. We had to turn that around and sling it again. It was a small, round barrel, about that long and about that high (showing).

Q. Can you be certain as to the number of barrels that were put out at Cassan bay?

A. No, sir; I could not; not the number, because we were
135 landing barrels all night. At the time we arrived there we took in the freight, and then we took out freight. There was a number of barrels. Of course I could not say after we handled that many. I don't know how many barrels of salmon. I think it was 250 or 250 odd; I would not be certain which; I I think it was 250; I would not swear; besides freight that went out; I know there was some flour went out; there was several things went out; I know the Indians took it away.

Q. Do you know whether or not all the barrels that were taken aboard at Victoria were put out of the steamer, everything cleared out of the steamer, at any time prior to the time she took in freight on her return—commenced taking in freight on her return trip?

A. Well, no, sir; it was not.

Q. What remained in?

A. Sir?

Q. What remained in?

A. Well, in Sitka everything was left with the exception of a little coal we had left and some freight we had aboard in Sitka, some iron from Douglass island, and some iron we had for Killisnoo. We had some barrels, possibly some bundles, for Killisnoo, and we han some rod iron for Douglass island, but to my best knowledge everything else when we got to Sitka was out with the exception of what we took aboard in Sitka.

Q. These barrels that were taken on board at Victoria, where were they taken out of the ship?

A. That is a hard question for me to answer, sir.

Q. You remember whether they were taken out or remained in?

A. In the first place, I am not down in the hold. I cannot tell where the freight is put out. I cannot tell when it comes out. I am on the dock.

Q. I ask whether you know or don't know.

A. I don't know that. I could not say that because I am not down in the ship's hold. I know I land everything that comes on the dock, with the exception of Sitka and Wrangel. O, I am on the yard-arm fall in those places; in other places I am on the dock; I was then.

Q. Didn't you tell Mr. Beecher that this short, fat barrel that you speak of was taken on board at Victoria?

A. I said, to the best of my recollection, yes, sir.

136 Q. Is that true?

A. As I say just now.

Q. You think that is one that was taken aboard at Victoria?

A. That I could not swear to, but I think it was a barrel like that; you can't swear to barrels; barrels are of the same description and you can't swear to them.

Q. Did you tell Mr. Beecher and Mr. Gardner or either of them last night that the barrels taken ab-ard at Victoria were not taken out of the ship until they were landed at Casson bay?

Mr. McNAUGHT: We object to that question. He is cross-examining his own witness, and it is leading.

The COURT: I think it is admissible. Answer the question.

Mr. McNAUGHT: We save an objection.

A. That the barrels that come aboard at Victoria were what, sir?

Q. That they remained in the ship until landed at Casson bay?

A. I could not tell you that, sir.

Q. Did you tell Mr. Beecher or Mr. Gardner, either of them?

A. They asked me that question, if I knew that. I said the same as I have said now—I was not down in the hold. I could not swear positively they were in the ship. It is a hard thing for me to tell what is in the ship when I am on the dock; there is freight going in and going out. I know this, when working coal everybody goes down into the hold. When we take that coal out, the last coal I took out I was tending the yard-arm fall, then swinging it over into the Pinta.

Q. You had a conversation with Mr. Beecher and Mr. Gardner last night, did you?

A. Yes, sir; as near as I can remember of, they were there to meet me.

Q. Where did you talk with them, in what place?

Mr. McNAUGHT: We object, if your honor please, on the ground that it is immaterial.

The COURT: Objection overruled.

Mr. McNAUGHT: We save an exception.

Q. Where was you when you talked with them?

A. In the Occident.

Q. In the Occidental hotel?

A. Yes, sir; in this city.

Q. Who was present during the time you were conversing with them?

A. Mr. Gardner and Mr. Wintrode.

137 Q. Wintrode?

A. Mr. Wintrode and Mr. Beecher.

Q. Have you had a conversation with Capt. Carroll, or have you met Capt. Carroll?

A. I met Capt. Carroll down street the first I seen of him. The first time I seen him he and Harry Hansen were together.

Cross-examination.

Mr. McNAUGHT:

Q. You stated that you were rolling—assisted in rolling—out some barrels at Juneau to prepare for receiving the freight that was to be landed at Juneau. Where did you roll those barrels to?

A. I rolled those barrels out of the warehouse where we left them, and we cleared the warehouse where we left them, and we cleared the warehouse to put the freight in.

Q. What kind of barrels did you roll out?

A. Salmon barrels and different other kind of barrels. I could not tell what they are.

Q. Now, sir, when you came back to Juneau did you not take on board those same barrels that you rolled out of the warehouse?

A. Yes, sir; they were outside of the warehouse. We took them aboard. It was on Sunday.

Q. Did you not land at Casson bay some of those barrels that were not salmon barrels that you rolled out of the warehouse that day?

A. Yes, sir; the same barrels. We landed the same barrels that came aboard at Juneau we landed at Cassan bay.

Q. They were the same barrels that you rolled out to put in the cargo that was landed?

A. Of course, barrels—that is a hard thing to swear to; that is my recollection.

Mr. McNAUGHT: That is all.

138 Redirect examination.

Mr. HANFORD:

Q. Were those barrels empty or did they contain something?

A. Yes, sir; they contained something. The most contained something.

Q. Headed up?

A. Headed up; yes, sir.

Q. Heavey?

A. Yes, sir; an average barrel. Of course, you could not tell what was in them. They are naturally heavey.

Q. Do you know whether any barrels you speak of were taken on on your downward trip at Juneau were landed from the steamer on her upward trip?

A. No, sir; they were not; because the barrels that I am talking about were in the warehouse when we went there. I was sent to

the dock. The mate used to give me some Indians. We had to have a lot of lumber, and I was to work the Indians on the lumber, and I went and cleared the warehouse and put the freight in, and these barrels were put on the outside. It was snowing heavey. They were covered with snow, and we had to sweep the snow off the docks before they could get at them, and clear the track—shovel the tracks off—bef-re they could truck the freight up. It was snowing then. I think it were 4 or 5 days—I would not be certain which—after we left before we came back again——(cut short).

Mr. McNAUGHT: We object to that—any conversation.

Mr. HANFORD:

Q. Have you any way of identifying the barrels landed at Casson bay as being the same barrels that were taken on at Juneau?

A. I have by one; I think that big fat fellow. I think I could identify that one, for I say that came on board at Juneau. I know because on account of slipping on the sling.

Q. You told Mr. Beecher and Mr. Gardner last night you thought that was one that came on the ship at Victoria.

A. That, of course, as I say—it is for to say, no man can swear as to barrels exactly.

139 H. F. BEECHER recalled for the U. S.

Mr. HANFORD: Did you have a conversation with Mr. Mitchell last night?

A. I did.

Q. What, if anything, did he say in that conversation? First state where it was and in whose presence the conversation occurred.

A. The conversation was in my room at the Occidental hotel. Mr. Gardner and Mr. Wintrode were present.

Q. What, if anything, did Mr. Mitchell tell you in regard to the identity of the barrels landed at Cassan bay from the Idaho with those taken on board at Victoria?

Mr. McNAUGHT: We object on the ground that it is leading, and they cannot impeach their own witness. They might prove he made a mistake. They cannot impeach him. I know of no exception to the rule, either in equity, admiralty, common law, or criminal law.

Mr. HANFORD: I do not wish to impeach the witness, your honor. We have been to a great deal of trouble to get this witness here and have delayed the trial for the purpose of producing him, and, upon information as to what his testimony would be and if he has seen fit in testifying to modify statements material to the case in any degree, I think it is fair and legitimate to allow us to show what the previous statements have been and allow the court to compare them with the testimony. It is not necessarily impeaching the witness. I don't claim that we have the right or that I wish to impeach the witness, but as assisting the court to weigh the testimony and to give the degree of weight to his statements in regard

to the identity of the barrels it seems to me fair and legitimate to show to the court what the previous statements of the witness have been in that regard.

Mr. McNAUGHT: We are not doubting but what Mr. Hanford, if your honor please, made his application for a continuance in perfect good faith, supposing that the witness would testify as he has stated, but that is no ground or reason for attempting to impeach their own witness, nor can it assist the court in coming to a conclusion as to the credibility as to other testimony (argument continued).

The COURT: Let it go in subject to objection.

140 Mr. McNAUGHT: We save an exception.

The COURT: An exception would not lie until the court makes use of that evidence contrary to the rights of the respondent. However, you can have the exception noted.

Remarks between Mr. McNaught and the court.

Mr. HANFORD: State what, if anything, Mr. Mitchell said in the conversation referred to last night in your presence and that of Mr. Gardner and Mr. Wintrode in regard to the identity of the barrels which were landed at Casson bay from the Idaho with the barrels that were taken on board the Idaho at Victoria.

A. He thought them to be the same, sir.

The COURT: What is that?

A. He thought them to be the same barrels that were landed at Casson bay—those taken on at Victoria. He had helped to put them aboard at Victoria, and at Nanimo he was in the lower hold——(cut short).

Mr. HANFORD:

Q. Right on the point as to the barrels—the description or identity of them or any of them?

A. The particular barrel that he described most particularly was one he called "the little fat, chunky one." I asked him if he had seen any barrel—any particular barrel—that he could remember going aboard in Victoria. He said, "Yes, sir; there was one little one about as broad as it was long;" and I says, Do you remember any others? "No," he says, "I don't remember particularly. There was so many barrels to see at Victoria—oil barrels, so far as I could remember. Some of them were about that high (showing) on the bilge and about that wide (showing). There was some smaller ones." I asked him if they were the same, as far as he could remember, that came off at Casson bay and he said they were.

Q. Did he say anything on the point as to whether they had remained in the ship until landed at Cassan bay?

Mr. McNAUGHT: We make the same objection.

Mr. HANFORD: Answer the question.

A. So far as he knew, they were.

Q. Do you know anything about a small boat that was taken

upon the Idaho on her voyage in January as to what boat that was?

A. Yes, sir.

Q. That Mr. Rhodes spoke of being landed at Casson bay or put out at Cassan bay?

A. Yes, sir; I do.

141 Q. Do you know who owned that boat at the time it was taken up there?

A. Capt. Carroll.

Q. Do you know when and where he bought it?

A. He bought it at a public sale—marshal'- sale at the custom-house at Port Townsend.

Q. Did you have any conversation with him about what use he was going to make of the boat at the time he bought it?

A. I did.

Q. What was it?

A. I asked him, says I, "What are you going to do with it?" He says, "I am going to take it up to my cannery in Alaska for bringing fish to the cannery from a distance." I remarked it would not carry much. He says, "I will take the house off and it will carry a good deal."

Mr. McNaught: Didn't he tell you, didn't Capt. Carroll tell you, he had bought that for the man who owned the cannery up there?

A. No, sir; he did not.

Mr. Hanford: Your honor, I rested the case, with the exception of the testimony of Mr. Mitchell, but I want leave to call a witness or two on another point in addition to that?

The Court: Call them.

Capt. J. H. Cameron called as a witness on the part of the United States and sworn.

Mr. Hanford:

Q. Were you ever master of the steam-tug Tacoma?

A. Yes, sir.

Q. Did you ever go as master of that tug to any place in Alaska?

A. Yes, sir.

Q. When was that—when did you make that trip?

A. I don't remember the date; I think it was in March.

Q. It was in the month of March?

A. I am not sure; I would not be positive; let me see (hesitates); yes, sir; about the 1st of March.

Q. What place in Alaska did you go to?

A. Tongas.

Q. Tongas?

A. Yes, sir.

Q. Did you go to any other point?

A. Yes, sir; we anchored one night in a place called Kasson bay, or outside of the bay we anchored.

Q. What did you go there for?

142 A. I don't know.

Q. What was done there? What did you put on or take off there—what did you put off or take?

A. I did not put anybody off or take anybody on.

Q. Did you see anybody there?

A. I saw one gentleman there, who came aboard and was aboard about half an hour and went ashore again.

Q. Do you know who it was?

A. I don't know now; I did not speak to the man at all.

Q. Who went up on the steamer that trip?

A. The crew and Capt. Libbey and the pilot, Capt. George.

Q. Do you know what employment Capt. George had been in prior to that time?

A. Nothing more than that he was a pilot. I never met the man——(cut short).

Q. Do you know what vessels he has been acting as pilot aboard of?

A. I have got no knowledge; only his own hearsay.

Q. He is pilot on that route up to Alaska, is he?

A. That is what he said.

Q. By whose direction did you go up to Alaska?

A. Capt. De Lion's.

Q. Do you know how many white people there were at Casson bay at that time?

A. I don't know; I was not ashore at all.

Q. Did you take aboard any passengers on that trip at any other place?

A. No, sir.

Q. You did not bring any person away from Casson bay?

A. No, sir.

Mr. HANFORD: That is all.

Mr. MCNAUGHT: No questions.

Capt. J. B. LIBBEY called as a witness on the part of the United States and sworn.

Mr. HANFORD:

Q. Did you go on the tug Tacoma up to Alaska at the time Capt. Cameron refers to?

A. Yes, sir.

Q. Do you know who made the arrangements or employed the tug to go on that trip?

143 A. No, sir: I do not.

Q. How did you come to go there?

A. By the request of Capt. De Lion.

Q. Did you have any mission to perform on that trip?

A. I had simply a letter to deliver at Tongas.

Q. Did you deliver it?

A. Yes, sir.

Q. To whom did you deliver it?

A. To the collector of customs of that port.

Q. What is his name?

A. I forget his name. The letter was not for him. It was for another party, and the party was not there, and I left it in his care until the party arrived.

Q. Who was the letter directed to?

A. McFarlane—a man by the name of McFarlane.

Q. Do you know for what purpose the tug went over to Kassan bay?

A. No, sir; I do not.

Q. Are you in partnership with Capt. De Lion?

A. Yes, sir; so far as the stevedoring business is concerned.

Q. What is Capt. De Lion's business at Port Townsend?

A. Shipping and commission and a ship broker and a stevedore.

Q. Is her the agent for Tacoma?

A. He is the agent for the Tacoma; yes, sir.

Mr. HANFORD: That is all.

Mr. MCNAUGHT: No questions.

Mr. HANFORD: I dislike to ask for any more delays in this case, and yet I ought to state to the court in regard to Capt. De Lion that we think we can show by his testimony that he employed the tug Tacoma to go up there and carry Mr. George, who was pilot in the employ of the Pacific Coast Steamship Company, the owners of the steamboat, to go to Kassan bay, and the inference to be drawn from that—we could not say it would be a positive testimony—is that it would tend at least to account for the non-production by the U. S. of the two men who were there at the time these barrels were landed and at the time they were seized. I think it is incumbent on the U. S. to produce those witnesses or account for their non-production, and we have information that they have been placed beyond our reach by persons interested adversely to us in this case.

144 I think Capt. De Lion's testimony will go that far, beyond any question, and show that the arrangement was made with the agent of the tug Tacoma to make a trip to carry Capt. George up there.

Mr. MCNAUGHT: I would like to enquire if the counsel for the Government has sent to Kassan bay to see if these men he is talking about are there.

Mr. HANFORD: No, sir; I have not. I have had information that made it entirely unnecessary to send there.

Mr. MCNAUGHT: The best information would have been to send there and find out. The counsel will probably find out before he gets through that if he had sent there he would have found out where his witnesses were that he is hunting for. Of course, if your honor please, I am anxious to speed the cause and get along as fast as possible. The counsel for the Government must have known the necessity for having Capt. De Lion here and all of these witnesses and have had his subpœna out so as to have brought them here earlier. While we want them to have a full and fair investi-

gation, yet we want them to speed the cause, and the testimony proposed to be offered by Capt. De Lion——(cut short).

The COURT: I don't see that that by itself amounts to anything.

Mr. MCNAUGHT: A pilot is subject to be employed by anybody.

The COURT: I don't think I will delay the case in order to procure the testimony that Mr. Hanford has stated. If he could appear here late in the case and it should be desired to take his testimony out of order, a different question would arise. The question now before the court is whether to delay the process of the case for the purpose of getting him here.

The COURT: Have you that manifest yet?

Mr. HANFORD: No, sir. I wish the case kept open for the purpose of introducing the manifest when received, and with that exception I will rest the case.

(Conversation between the court and Mr. Hanford in regard to the presumption arising from the non-production of the witnesses from Kassan bay.)

Mr. MCNAUGHT: I am going to make a motion, and I will ask no presumption on account of your producing those two witnesses.

Mr. HANFORD: I was going to remark further, in regard to sending a subpœna to Kasson bay, that it is more than 100 miles from here, and that under the statute of the U. S. a witness could
145 not be compelled to attend.

The COURT: I said that even if they were within the distance within which they could be subpœnaed then the proper evidence that they could not be found would be the return. There is no showing of any effort to get the depositions of these men. I don't know how large a place Kassan bay is. I don't know but there is anybody else there but these two men. If there is nobody else there I suppose there is nobody before whom the depositions could be taken. The bay may be very large and the fishery very small.

The COURT to Mr. Hanford: I understand you rest except as to the manifest?

Mr. HANFORD: Yes, sir.

Mr. MCNAUGHT: I desire now, if your honor please, to move the court to ascertain or advise the defense as to whether or not sufficient has been proven to put us upon trial as to any one of the four counts in the libel of information.

The COURT: Do you mean to dismiss, or what is the precise nature of your motion?

Mr. MCNAUGHT: A. I am hardly advised as to just what your honor's rulings have been in the United States cases.

The COURT: Motion lies to dismiss the cause; a demurrer or motion in the nature of the demurrer to the evidence lies. Exceptions to the evidence, it would be found in admiralty.

Mr. MCNAUGHT: I was not and am not fully advised as to just how far your honor has ruled in permitting us to go on with the defense in case a motion of this kind or character should be denied.

I had the question up once before Judge Buck in Idaho in a U. *A.* case, and after discussing it with the court a little he said he thought the safer way was to make such a motion as I am about to make in the nature of a demurrer to the evidence, which will permit me to go on with the case. The judge informed me that he had not ruled as to whether or not under a territorial statute a motion to dismiss applied to a territorial case.

(I don't suppose it does, only, as this is an admiralty cause, it will go under the admiralty rule. Any kind of a motion that is equitable is allowed in admiralty. It is a regular thing to interpose it at this stage in order to test the sufficiency of this evidence; is to except to the evidence.)

146 Mr. McNAUGHT: And in case of such an exception, then your honor allows the case, if ruled adversely to the person applying, to introduce such further proofs as may be had?

The COURT: Yes, sir; it stands exactly the same as an exception to the libel; you make exception now to the proof?

Mr. McNAUGHT: Yes, sir.

The COURT: *A.* If the proofs are adjudged to be sufficient my understanding of the practice is that you would be allowed to go on.

Mr. McNAUGHT: To go on with the case?

Mr. McNAUGHT: Then our motion or our exception is to the sufficiency of the evidence, and we make it separately to each of the four counts, in the indictment or bill of information.

(Mr. McNaught proceeds with his argument of the exception.)

147 Part No. 5.

APRIL 16, 1886—1.30 p. m.

(Continuation of the argument by Mr. McNaught and Mr. C. H. Hanford.)

The COURT: The exceptions are overruled. Do you wish to open the court?

Mr. McNAUGHT: We will save an exception to the overruling of the exce-tions.

(Opening statement made by Mr. McNaught.)

SAMUEL A. SMITH, a witness on behalf of the respondent, called and duly sworn by the clerk.

Questions by Mr. McNAUGHT:

Q. What is your business?
A. Freight clerk.
Q. On what steamer?
A. The Idaho.
Q. Were you on the steamer Idaho on her voyage in December, 1885?
A. I was.
Q. Were you on her at Victoria during her stay there?
A. Yes, sir.

Q. As freight clerk do you keep account of the freight that is discharged at the various places where your steamer makes landings on the round trip?

A. Yes; I check it out.

Q. Where were you on the evening of the 8th of December while your steamer was in Victoria—from six to eight o'clock?

A. I was up the street; up in the city.

Q. In keeping account of the freight do you keep account of the ship's stores?

A. No, sir.

Q. On that trip to Alaska in December what kind of a cargo did you have aboard?

A. I had a general assortment of merchandise.

Q. Do you remember about the quantity?

148 A. There was in the neighborhood of nine hundred tons, coal and all; between six and seven hundred tons of merchandise.

Q. Do you keep a book or an account of the freight taken in and discharged on each voyage?

A. Yes, sir.

Q. Have you got that book with you?

A. Yes, sir.

Q. Can you tell without refer-ing to that book what freight was discharged on your upward voyage at Juneau?

A. No, sir.

Q. Could you tell by referring to the book?

A. I could tell about the number of tons, but I could not tell what it consisted of.

Q. Is that the book that you kept during that time?

A. Yes, sir.

Q. When did you make your entries in that book?

A. Just as soon as possible after leaving the port.

Q. From what did you make the entries in the book?

A. From off the shipping receipts.

Q. Taking this book and refreshing your memory from it, state what goods were landed at Juneau on your upward voyage.

(Book handed witness.)

A. From Portland we landed 114 and six-tenths tons of merchandise, from Port Townsend we landed *we landed* 39 and $\frac{1}{10}$ths tons, and from Victoria we landed 15 and $\frac{3}{10}$ths tons.

Q. Can you tell what that Victoria freight consisted of?

A. Well, lumber is the principal article; lumber and fresh meat.

Q. Read the articles as you have them.

A. There *is* two fruit.

Q. Two packages of fruit?

A. Small packages, three feet; one turkey, four quarters of fresh meat. There are several different consignments. That is all one consignment.

Q. Who was that to?

A. To J. J. Mc——.

Q. What else did you land?

A. James Wine, 1 merchandise, three feet. I have no recollection what it is.

Q. Three feet. What do you mean?

149 A. That means a small package.

Q. Measurement of three feet?

A. Three cubic feet. Mrs. George Church, 1 package merchandise. I have no recollection what that is; two feet. That is still smaller. Minn & Borine, one quarter — meat; Mrs. B. Levy, one quarter of meat; B. Brady, nine quarters of meat; Rev. Father Oltheoff, 5,375 feet of lumber and 37 packages of merchandise that consisted of building material, nails, hardware, and glass; and W. F. Reed, eight quarters of fresh meat; Yank, one quarter of fresh meat; Stets, one quarter of fresh meat. That constitutes the lot.

Q. Is that all the freight that was landed on that upward voyage from that steamer at Juneau?

A. Yes, excepting some coal; we landed some coal. Yes, there is a lot more here from San Francisco; 18½ tons from San Francisco we landed there.

Q. What was it?

A. Alaska Mining Company, three packages of oil and compound; D. Cartion, one package — clothing and 26 packages of groceries; George Herkreider, six packages of fruit; H. Hall, 16 packages of groceries, two fruit, and five coal oil; H. Sanderson, 4 coal oil, 2 packages of merchandise; I don't know what they are.

Q. What is the dimension of the two packages?

A. Sixteen feet, the two packages.

H. Hawthorne, *M.* packages merchandise, three feet; J. Fellows, 3 packages apples, 1 box coffee, five packages of butter, eggs, oil, and 19 of groceries; Koenler & James, three packages of butter and shoes; Mrs. B. Levy, 17 packages of coal oil; and Chipley, one stove and 73 groceries, etc.; Northwest Trading Co., 3 packages of powder; B. Cochran, 4 trunks; H. Brady, 4 groceries, nine trunks, and fancy goods; R. Goldstein, 30 packages of groceries, one trunk, and three packages of tobacco; W. F. Reed, two packages of merchandise and fifteen fruit and vegetables.

Q. Is that all, now?

A. Yes; that is all to Juneau.

150 Q. Was there any freight from Nanimo landed at Juneau that time?

A. Yes; one package of merchandise, two feet, and twelve tons of coal.

Q. On that voyage up from Victoria, was there a custom-house officer on board of the steamer Idaho?

A. Yes, sir.

Q. Who was he?

A. Mr. Waterbury.

Q. At that time was there a deputy collector at Juneau?

A. Yes, sir.

Q. What is his name?

A. McGregor; I think that is his name.

Q. Was it McGregor or Webster?
A. I could not answer that; I do not know whether McGregor had been removed before that.
Q. But there was a deputy collector there?
A. Yes, sir
Q. How long have you been running in that country?
A. I have been on the Idaho since last September.
Q. During all that time they had a traveling inspector on board?
A. Yes, sir.
Q. And was there, during that time, a collector at Juneau?
A. There was a deputy there.
Q. Was the deputy there at Juneau when you went up on this voyage?
A. Yes, sir.
Q. And on the dock at the time the freight was landed?
A. Yes, sir.
Q. On your arrival at Juneau, did you find any freight on the wharf or in the warehouse before discharging any from the steamer?
A. Yes, sir.
Q. What did you find on the dock or warehouse at that time before discharging from your steamer?
A. I found some salmon and some other barrels.
Q. Do you remember about the number of other barrels that you saw there?
A. Yes, sir.
Q. About how many were there?
151 A. 14.
Q. Did you on your upward voyage take on any freight at Juneau going to Sitka?
A. I do not recollect; I can tell by the book.
Q. You can tell by referring to the book? See if you took on any freight there.
A. Yes, sir.
Q. What was it that you took on there?
A. Two packages of merchandise.
Q. What did they measure?
A. Six feet.
Q. Where were they taken to?
A. Sitka.
Q. Where was your next stopping place?
A. Douglass island after Juneau.
Q. Did you have any freight for Douglass island?
A. Yes, sir.
Q. How much freight?
A. About 70 tons.
Q. Do you remember what it consisted of principally?
A. Machinery for the mill there.
Q. What was your next stopping place after Douglass island?
A. Killisnoo.
Q. Did you have any freight for that place?
A. Yes, sir.

Q. What did it consist of generally?
A. Empty barrels generally.
Q. What business is carried on there?
A. Manufacture of oil.
Q. Do you remember about the number of empty barrels that you landed there at that place?
A. No, sir; it was up in the hundreds, though.
Q. Will your book show?
A. Yes, sir.
Q. State from the book.
A. 255 empty barrels and 36 big casks.
Q. Where was your next stopping place after that?
A. Sitka.
152 Q. Did you have any freight for Sitka?
A. Yes, sir.
Q. What did it consist of?
A. General merchandise—groceries and provisions.
Q. Enumerated in your book as packages?
A. Just the same as the other places.
Q. About how many tons for Sitka?
A. 18 to 20.
Q. Did you take in any freight at Sitka on your downward voyage?
A. Yes, sir.
Q. About how much?
A. Not a great deal; only a few packages of bear skins or fur of some kind.
Q. What did you take in at your next place on your downward voyage?
A. Oil.
Q. Where was that?
A. At Killisnoo.
Q. How many barrels of oil did you take in there?
A. I think it was 408 and some, if my memory serves me right.
Q. Did the custom-house inspector go with you all the way to Sitka—was he with your ship up to Sitka on your way up?
A. Yes, sir.
Q. Who had, on behalf of the custom-house, superintendence of the greights on that upward voyage?
A. The inspector on the ship.
Q. Capt. Waterbury?
A. Yes, sir.
Q. Who was on board on the downward trip on behalf of the custom-house, if anybody?
A. Collector French.
Q. Where did he get on board?
—. At Sitka.
Q. How far did he come with you; to what point?
A. He came all the way down with us. I do not recollect whether he went around to Portland with us or stopped off at Port Townsend; but I know that he came as far as Port Townsend.

Q. What was the next point that you landed at after you took on the oil barrels on your downward trip?

153 A. Juneau.

Q. Stop at Douglass island on your downward voyage?

A. Yes, sir.

Q. In coming down did you go to Juneau first?

A. I think, if my recollection serves me right, we went to Juneau first.

Q. How far is it from Juneau to Douglass island?

A. Three or four miles.

Q. Did you take on any freight at Juneau on your downward voyage?

A. Yes, sir.

Q. Will your books show what it is?

A. Yes, sir.

Q. State what it is by looking at that book.

A. One package of merchandise for Mrs. Perry Davis, Wrangel, 4 feet; Juneau to Kasson bay, Charles R. Langtry, 14 barrels and ten bales of skins; Juneau to Victoria, Finley, Durham and Beatty, 3 bales of skins; J. Bostwick, 3 bales of skins; D. Luce, 3 bales. Juneau to Port Townsend, S. C. Bartlett, 1 package, 10 feet; I. A. Bostwick, 2 bales of skins; Juneau to Portland, Corbett & Maclay, 2 packages of merchandise, 3 feet; G. C. & Bro., 4 packages skins, and C. & Co., 2 packages; Juneau to San Francisco, Alaska Milling and Mining Co., 2 packages of merchandise, 3 feet; B. S. & Co., 1 pckg. of skins; Gilber & Clements, 49 packages of salmon; S. L. Jones, 5 bales of skins. That is the lot.

Q. How many barrels were taken on? The 14 barrels that were taken on at Juneau for Kasson bay, as shown on the book, are they the same barrels that lay there when you went up?

A. Yes, sir.

Q. And were on the dock before you landed any freight from your steamer?

A. Yes, sir.

Q. Where did you go after you left Juneau?

A. Went to Douglass island.

Q. Did you take on any freight at Douglass island?

A. Yes, sir.

Q. What was it?

A. Nothing, only the treasure from the mill.

Q. Where did you go after you left Douglass island?

A. Wrangel.

154 Q. Did you take on any freight at Wrangel?

A. Yes, sir.

Q. What was it?

A. For Victoria, six packages of skins—John Grant, 2 packages; John J. Post, 4 packages. Landis & Sawyer, 1 package of merchandise, 4 feet; to Portland, 4 barrels of oil, 24 feet.

Q. Who was that consigned to?

A. J. Carroll. Wrangel to San Francisco, D. S. & Co., 1 package

of skins; Wadnams & Elliott, 5 packages of skins. That is all we took on *that* Wrangel.

Q. Where is the next place that you landed after leaving Wrangel?

A. Kasson bay.

Q. What did you land at Kasson bay?

A. We landed the barrels and stu*pp* that we took on at Juneau for that place.

Q. What did you take on at Kasson bay?

A. A lot of salmon in barrels.

Q. How much?

A. 295 barrels and 9 half barrels.

Q. What revenue officer, if any, was on board or at Kasson bay at the time of the landing or taking on freight?

A. Collector French was there all the time.

Q. Where did you go from Kasson bay on your downward voyage?

A. Went to Tongas.

Q. Did you return to Kasson bay any more between that time and your arrival at Victoria?

A. No, sir.

Q. Did you take on any freight at Tongass?

A. Yes, sir.

Q. What was it?

A. B. B. Turney, packages of bear skin, 3 packages of merchandise; R. I. Humphrey, 2 packages of merchandise. That is all.

Q. Who shipped the salmon that you took on at Kasson bay?

A. Kasson Bay Company.

Q. Do you know who constitutes the Kasson Bay Company?

A. No, sir.

Q. Who was that salmon shipped to taken on from Kasson bay on your downward voyage?

155 A. Linden Huff.

Q. How long did you lay in Victoria on your downward trip?

A. Well, I don't know, but I know we lay there a good while.

Q. You went from there to Port Townsend?

A. Yes, sir,

Q. Do you know of anything or any freight being taken on at Victoria, or did you find any freight after you came down from up street on the steamer at Victoria on the evening of the 8th that you had not seen on board before?

A. No, sir.

Q. Where does the steamship Idaho usually purchase her ship's stores in going north from Victoria?

A. She gets all her meat in Victoria—all perishable stuff.

Q. How is that meat usually put up?

A. Some of it fresh in quarters and lots of it salt in barrels.

Q. Do you know when the ship's stores for that trip came aboard?

A. They came aboard in the evening.

Q. That book you have referred to, so far as the entries are concerned, is in the same condition it was at the time you made the entries?

A. Yes, sir.

Mr. McNAUGHT: We offer the book in evidence.

The COURT: Do your wish to cross-examine?

Mr. HANFORD: Yes, sir.

Cross-examination:

Q. Did you make all these entries yourself, Mr. Smith?

A. Yes, sir.

Q. Are you able to tell from this by whom the merchandise was entered—who shippee it in all cases?

A. No, sir; not in all cases. I can't tell anything about it on the up trip, but on the down trip we aim to get the shippers; but on the up trip we do not take any account of that.

Q. But on the down trip it was customary to enter the shipper's name?

A. Yes, sir.

Q. In this column to the left, what does the letter D signify?

A. That is the purser's approval mark after he has audited it.

156 Q. In this entry in regard to the merchandise from Juneau to Casson bay, on the left-hand column, the letter- C. L., what does that signify?

A. That is the shipper—the shipper's initials.

Q. Is that the same person to whom the goods were consigned?

A. Yes, sir.

(Book admitted in evidence and marked Exhibit O.)

Continuation of direct examination by Mr. McNAUGHT:

Q. You make a report at the end of the voyage of the freight handled on each voyage?

A. Yes, sir.

Q. To whom do you make that report?

A. To the company.

Q. What company?

A. The Pacific Coast Steamship Company.

Q. Who are the general agents of that company in San Francisco?

A. Goodall, Perkins & Co.

(Papers hand- Mr. Hanford for inspection.)

Q. Did you make a report of all the business you did for them on the December voyage—that the ship did?

A. Yes, sir.

Q. What does that report contain?

(Papers handee witness which Mr. Hanford examined.)

A. It contains a copy from that book.

Q. What kind of sheets is it made out on and how is it made out?
A. Made out on pink and white sheets.
Q. When was that report made of the December trip?
A. At the termination of the voyage.

157 S. A. SMITH, a witness on the part of respondents.

Direct examination continued.

Mr. MCNAUGHT:

Q. What is this, Mr. Smith (showing a number of sheets of paper attached)?
A. It is a copy of the trip.
Q. It is a copy of the book, is it?
A. Yes, sir.
Q. Are these the kind of sheets you make out the report on to the company?
A. Yes, sir.
Q. Is this in all respects like the report you make out to them?
A. Yes, sir.
Q. Taken from the book?
A. Yes, sir.
Q. Is this a transcript of the book?
A. Yes, sir.

Mr. MCNAUGHT: We offer these sheets as showing the manner of doing business.

Cross-examination by Mr. HANFORD:

Q. Who made this copy?
A. I did.
Q. Do you mean that it is a copy of the report you made to the company or a copy or transcript of the book?
A. It is both. It is a copy of what I sent to the company and a copy of the book.
Q. Have you compared it with the original you sent to the company?
A. No, sir. That is the original; that book. I compared it with that (showing).
Q. Have you ever seen the original report since you sent it to the company?
A. No, sir.
Q. Since you sent it this has been sent from the company's office?
A. No, sir.
Q. Where did you get it?
A. I made that on the ship.
Q. You made that?
A. Yes, sir; from the book.
158 Q. Since you sent the report away to the company?
A. Yes, sir.

Mr. HA-FORD: We object to this. This, even on this testimony, is merely a reproduction of the book, according to what he said, and the book, I think, is the better evidence. They have introduced the book, and now this cannot be any more than a copy of the book.

Mr. MCNAUGHT: We merely offer this to show their manner of doing business. We show that we make out a report of this kind on this kind of paper every trip, which is a transcript of the book, and send that to headquarters at San Francisco (and further argument).

The COURT: I suppose this might be admitted as illustrating the practice of the company.

The COURT continued: But this is inadmissible either as an original or as a copy. It is neither an original nor is it a copy. If it is proposed to put it in evidence as showing the report that was made on that voyage to the company, it is inadmissible, because it is a copy indirectly of that report. It is a copy made from the original from which the copy was made.

Mr. MCNAUGHT: Yes, sir.

The COURT: It has never been compared with the actual report. It is no proof whatever that it accords exactly with the actual report. If it were proposed to be introduced as a copy there is no proof that it is a copy, because it has not been compared. Then it would only be secondary evidence, whereas the original is in the possession of the company. Therefore I say it is *as* inadmissible as showing what report was made to the company of that voyage, but it is admissible as illustrating to the court the form of reports that were made or customarily made.

Mr. MCNAUGHT: That is all we offer it for, to show the manner of doing business.

The COURT: A sort of a sample. It would be just as available if it was not transcribed from the book at all.

The COURT: Admitted for the qualified purpose. Mark it Exhibit "P."

Direct examination resumed.

Mr. MCNAUGHT:

Q. What business was carried on in December at Cape Fox?
A. In December?
Q. Yes, and for some time before.
A. They was canning salmon in the season.
159 Q. How far is it from Juneau to Kassan bay?
A. In the neighborhood of 230 miles.
The COURT: Is that by way of Douglass island or direct?
A. That is direct; the regular route; the way we always go.

Mr. MCNAUGHT:

Q. How far is it from Kassan bay to Cape Fox?
A. Well, I suppose, 50 or 60 miles; 60 miles, perhaps.

Mr. MCNAUGHT: Take the witness.

Cross-examination.

Mr. HANFORD:

Q. What were your duties as freight clerk?

A. To receive freight and deliver freight and make out the bills, &c.

Q. Was it any part of your duty to collect the freight?

A. No, sir.

Q. Who collected the freight?

A. The agents of the ports where there are agents and in other places the pursers did it.

Q. Did you keep any account of the stores purchased or received by the ship?

A. No, sir.

Q. You kept account of that?

A. No account at all.

Q. Did you keep any account of the payments made of the freight that the ship earned?

A. No, sir. That the ship earned?

Q. Yes, sir; the payments?

A. Oh, yes, sir; yes, sir.

Q. When freight was paid was it reported to you and did you keep any memorandum on account of it?

A. No, sir; but I kept an account of the total amount that the ship earned.

Q. But your accounts would not show whether the freight had been paid or not?

A. No, sir.

Q. Wasn't it your duty to make any reports or transcripts from the freight book other than the report you mentioned made to the company?

A. No, sir.

160 Q. Whose duty was it to make out the manifest for entering and clearing at the custom-house?

A. The purser's.

Q. In making the manifest was it his custom to refer to your book?

A. No, sir.

Q. Did *we* have an account of freight received on board the steamer independent of your account?

A. He had the shipping receipts to refer to.

Q. The same papers from which you made up the freight book?

A. Yes, sir.

Q. Who had the custody and charge of the shipping receipts, you or the purser?

A. I.

Q. And, for the purpose of making up the manifest, the purser would get them from you?

A. Yes, sir.

Q. And when he had done with them returned them to you?

A. Yes, sir.

Q. And if there were no errors in the freight book or in the manifest the manifest would correspond with the freight book, would it not?

A. Yes, sir.

Q. Supposing both to be correct?

A. Yes, sir; if they was correct.

Q. They would both correspond to the shipping receipts?

A. Yes, sir.

Q. In going north what is the first stopping point on the Idaho's route after leaving Juneau—her usual route?

A. Douglass island.

Q. In the return trip which is the first point she stops at after leaving Juneau?

A. Douglass island.

Q. She passes Douglass island, does she, going both ways?

A. Yes, sir.

Q. And which is the next point on the return trip after passing Douglass island?

A. Wrangel.

Q. What is the distance from Juneau to Wrangel?

161 A. About 150 or 60 miles; somewhere long there.

Q. What is the next point from Wrangel, coming this way?

A. As a rule, Casson bay.

Q. Did the Idaho always touch at Casson bay?

A. Not always.

Q. Is it off her route?

A. No, sir; it is not off the route.

Q. Is it out of the way; does she have to travel any more miles to go in there?

A. Yes, sir.

Q. How much; what distance?

A. About 12 miles.

Q. What is the direction from Casson bay to Cape Fox?

A. Well, Casson bay is to the westward of Cape Fox.

Q. How far is Cape Fox off the track or route of travel of the Idaho in making her trip coming this way?

A. About 18 or 20 miles—25 miles, perhaps.

Q. Would it cause greater or less delay for her to stop at Cape Fox than to go to Casson bay?

A. It would cause more delay to stop at Cape Fox.

Q. Did she ever make a practice of going to Cape Fox?

A. Very seldom.

Q. How many people live at Cape Fox?

A. I don't know.

The COURT: Any settlement there?

A. There is a cannery there.

—. How large a cannery, do you know?

A. No, sir; I don't know; it is quite an institution, though—quite a large one.

The COURT: How many hands do you usually see about when you are there?

A. I never was ashore there. I never was in the factory.

Mr. HANFORD:

Q. You stated that the canning business was done there curing the salmon; during what months is that cannery in operation? What is the canning season at that place?

A. They are up there now making preparations.

Q. This is April; during what months will the cannery be in operation?

162 A. It will be in operation from now until the end of the salmon season, the end of the run; I don't know when that is. Maybe it is July or August; I don't know.

Q. Is there usually any business going on there in the month of December?

A. I don't know.

Q. How long have you been going on the steamers on the Alaska route?

A. Well, altogether, about a year and a ½; I was on the route about 9 months, and then I left it and was off a little while and then went back on it again.

Q. Do you know Charles R. Langtry?

A. I saw a man represented to be him; I have no knowledge of him.

Q. When?

A. In December.

Q. At the time you took those barrels from Juneau?

A. Yes, sir.

Q. Did you see him before or since?

A. Not before or since.

Q. Do you know where he lives?

A. No, sir.

The COURT: What is the name?

Mr. HANFORD: Charles R. Langtry.

Mr. HANFORD: Did you see him at the time the barrels were taken aboard or at the time the steamer went up?

A. At the time the steamer went up.

Q. Was he there when the steamer came back?

A. I don't know; I didn't see him; I don't know whether he was there or not.

Q. Did you have any talk with him?

A. Yes, sir; a few words.

Q. What was the conversation?

A. He said that he wanted—had some stuff there that he wanted to go down to Cape Fox.

Q. Did he show it to you?

A. Yes, sir.

Q. Did he tell you what it was?

A. Yes, sir.

Q. What did he say he had?

163 A. He said he had some skins.

Q. Did he show those bales or skins?

A. And the barrels.

Q. What kind of skins were they?

A. Sealskins. These hair sealskins and deer skins and bear all mixed up.

Q. Were they dry skins?

A. Those in the bales were dry.

Q. Did he tell you what were in the barrels?

A. He said they were skins.

Q. Did you have any conversation with him about the contents of the barrels more than that?

A. No, sir.

Q. Were the barrels marked?

A. No, sir.

Q. Were the barrels marked?

A. No, sir.

Q. At the time you saw them were they in the warehouse or outside?

A. They were in the warehouse.

Q. Were they moved?

A. Yes, sir.

Q. At what time?

A. Yes, sir.

Q. Where were they moved to?

A. Right on the outside.

Q. Do you know whether they were put back in the warehouse or not?

A. I don't know about that.

Q. Where were they when the steamer took them?

A. They were outside when we took them.

Q. When the steamer arrived there at Juneau, coming down, were they outside then?

A. Yes, sir.

Q. Did they appear to have been out in the weather during that time?

A. Yes, sir.

Q. These bales and barrels?

A. The bales were not, only the barrels.

Q. Only the barrels?

A. The bales were not outside

164 Q. Did you ever make out any bill for the freight on this stuff that was there?

A. Yes, sir.

Q. What did you do with it?

A. Passed it over to the purser.

Q. When?

A. On that trip, just before we arrived at Cassan bay.

Q. Do you remember who received the freight at Cassan bay?

A. It was put there on the wharf.

Q. What time was it landed there?
A. In the middle of the night.
Q. Was you up?
A. Yes, sir.
Q. You saw it go ashore?
A. Yes, sir.
Q. Did you see anybody on the wharf?
A. Yes, sir.
Q. Who did you see?
A. I saw 2 or 3 men there—half a dozen men—Indians and all.
Q. Did you know any of them?
A. Only by sight.
Q. Do you know their names?
A. Not full names; no, sir.
Q. How many white men? You say Indians and all there were ½ dozen.
A. I saw 3 white men.
Q. 3 white men?
A. Yes, sir.
Q. You don't know the names of any of them?
A. No, sir.
The COURT: You say you don't know the full names?
A. Not the full names.
The COURT: How much do you know of their names?
A. I know one fellow they called Charlie and another Mike. That is all I know.
Mr. HANFORD: Do you know whether Collector Frence took any notice of those barrels at any time, either at Juneau or at Cassan bay?
A. No, sir.
165 Q. Do you remember whether he was up when the steamer landed at Cassan bay?
A. I don't know whether he was or not.
Q. You don't remember seeing him?
A. No, sir.
Q. Are you able to testify from your memory in regard to the freight that was taken and landed at the different places on this voyage or do you rely on this book in the statements you have made?
A. Well, I have to rely on that book, for I can't go to my memory; there was too much of it.
Q. In this entry of freight from Juneau to Cassan bay there appears to have been an alteration made at some time (showing book). Can you explain that—tell when that was made?
A. (Witness examines book.) An alteration—where, sir?
Q. (Mr. Hanford shows and witness examines.)
A. No.
Q. Do you know when these figures were made (pointing)?
A. These figures were made immediately after the ship left Juneau.
Q. These figures (showing)?

A. These? Yes, sir; that is the tonnage.
Q. The measurement?
A. That is the tonnage; it is 127 feet; it is 3 tons and $\frac{2}{10}$ of a ton.
Q. Are these entries made in ink or pencil?
A. In pencil; this is only a blotter; it passes through the purser; he is likely to find lots of mistakes, and we do it in pencil so they can be erased.
Q. It was customary if you found a mistake in the entry to chase it and correct it?
A. Yes, sir.

(The court examines the book at the place of the supposed alteration.)

Q. Do you know Lynden and Huff, to whom the salmon were consigned that were taken on board? What place was that salmon shipped to, what was its destination?
A. San Francisco.
Q. Whose business is it to purchase stores for the ship?
A. The steward's.
Q. Why are the meats for that vessel purchased at Victoria?
A. Because it is the last place available to *to* get them and the best place.
166 Q. Salted meats and barreled meats, couldn't they be as well purchased on the American side?
A. The company have a contract with the butcher to furnish meat at a certain price.
Q. Do you know that of your own knowledge?
A. No, sir; not of my own knowledge.

Redirect examination:

Mr. McNAUGHT: You said, Mr. Smith, that you had to rely on the book. Do you mean that you rely on the book wholly or some shipments you remember?
A. Yes, sir; there might be an odd shipment, perhaps, that I remember if there was anything special.
Mr. HANFORD: Did you hear any conversation between Capt. Carroll and Mr. Langtry at Juneau in regard to that freight?
A. No, sir.
Q. You don't know whether Langtry requested the captain to carry his stuff to Cape Fox?
A. Only from hearsay; not positive; I have no positive knowledge of it.

Capt. SAMUEL WATERBURY called on behalf of the respondents and sworn:

Mr. McNAUGHT: Are you acquainted with the steamship Idaho?
A. Yes, sir.
Q. How long have you know- that ship?
A. I have been on her since the 18th of May, '84.

Q. In what capacity?

A. Inspector afloat.

Q. Where was she running during that time?

A. Running to Sitka and intermediate ports.

Q. Where did you usually join the vessel on her trip going north?

A. Since last summer I have joined her at Tongas.

Q. During the time you have been aboard her, what was her usual route?

A. I speak of the route she would make to reach Sitka. After leaving Nanimo she came to Tongas; from there she occasionally stopped at Cape Fox when there was business, and from there
167 to Casson Bay, and to *to* Loring, which was directly opposite, from 20 to 30 miles distant east and west, and thence to Wrangel, and from there to Douglass island and Juneau to Killisnoo, and from there to Sitka. Occasionally she would go to Caganni—it was on the outside—when there was any business.

Q. How had it been during that time as to the steamers stopping and discharging freight during the night-time at these different points?

A. Tongas was made especially for that purpose by special orders of the Treasury Department, so that the ship could land there and take the inspector on board and discharge after leaving there.

Q. How has it been during that time as to points beyond Tongas in discharging at night-time?

A. Sometimes they discharge at night, and some time during the day; it was according to the tide. In making stoppages they had better opportunity for taking the day for sailing; it was not as dangerous.

Q. Who supervised the discharging on behalf of the custom-house at the different points?

A. I did.

Q. Were you on board on the voyage made in December, 1885?

A. Yes, sir.

Q. Where did you join the ship on that voyage?

A. At Port Townsend.

Q. Were you on the ship at Victoria?

A. Yes, sir.

Q. And who during that voyage, on behalf of the custom-house, was in charge of the ship until she arrived at Sitka?

A. I was.

Q. Who on the downward voyage?

A. I resigned in Sitka on the 18th of December and came down to Juneau with Collecotor French, and from thence Collector French came down by himself.

Q. Were you on the dock at Juneau during the time the freight was landed from the steamship on her upward voyage?

A. Yes, sir.

Q. Whose duty was it on the dock to supervise the landing at Juneau of the freight?

168 A. Both myself and the inspector that is at Juneau station.

Q. Who was there at that time?

A. Mr. Webster.

Q. Were you in the warehouse and on the dock before you commenced discharging freight from the ship?

A. Yes, sir; I am generally the first one off the ship and up to the warehouse when she arrives.

Q. Were you in the warehouse that day before the ship discharged the freight?

A. Yes, sir.

Q. What freight or merchandise, if any, did you find there in the warehouse?

A. I saw some salmon barrels; barrels that looked to me like oil barrels.

Q. Do you know what, if anything, was done with those barrels there at that time and before they discharged the freight?

A. They were rolled out of the warehouse on the outside, to make room for the freight that was coming out of the ship.

Q. Describe those barrels that you saw rolled out of the warehouse onto the dock at Juneau prior to the landing of the freight from the steamship Idaho.

A. Well, they looked very much like the barrels that I saw at the custom-house in Port Townsend.

Q. When did you see the barrels in the custom-house at Port Townsend, and with whom were you at the time of seeing them?

A. I went to the custom-house with Capt. Carroll, and Mr. Hanford was there, I think, and yourself (refer-ing to Mr. McNaught). I don't remember of anybody else; there might have been somebody else.

Q. Were those barrels which you saw at the warehouse which were rolled out onto the dock taken in the ship Idaho on her December voyage from Victoria to Juneau?

A. I cannot say that they were; I did not see them.

Q. How is that?

A. I did not see those barrels before until I got up to Juneau—the barrels that resemble the barrels that I saw in the custom-house at Port Townsend.

Q. The first that you saw of those barrels, then, was on the dock at Juneau before the landing of the Idaho's freight?

A. Yes, sir.

169 Q. Did you see those barrels after that time at Juneau?

A. On the down trip I saw them taken on board at Juneau on the Idaho. I was there until the ship left, about 11 o'clock at night, and I bid Colonel French good-bye, and he went on board and sailed.

Q. Are there any small boats and sloops trading through that country and were there in December last?

A. Yes, sir; several I saw.

Q. While you were stationed at Tongas did you have any occasion to look after these other boats and schooners that were trading in that country?

A. Yes, sir; I used to go frequently *in* 100 miles in a small boat.

Q. For what purpose?

A. For the purpose of looking out for some of those vessels. Some would come to Tongas, and I would board them and see what they had in them. They would go away again up toward Sitka and Wrangel. *Come to Tongas, and I would board them and see what they had in them, and they would go away again up towards Sitka or Wrangel.* They said they were on trading trips.

Q. After you were placed on the S. S. Idaho or during the time you were running on her as inspector of customs afloat what conversation, if any, had you with Capt. Carroll or understanding had you about making careful examination of all freights aboard the ship?

Mr. HANFORD: We object to that question.

The COURT: I think it is objectionable.

Mr. MCNAUGHT: We thought it might be sustained, but we say, if such was the fact, that it was understood with Capt. Carroll and the inspector that he would — careful attention to all freight aboard and make careful investigation for the purpose of ascertaining whether anything was being smuggled, and to that extent it would relieve Capt. Carroll from the responsibility that naturally the master of a vessel would assume.

The COURT: I suppose prior to the supposed occasion of the *preufdulent* landing there of these goods it might be.

Mr. MCNAUGHT: All my proof goes to that, because this officer resigned on that upward-trip voyage and has not been an inspector since.

Argument by Mr. Hanford against the proposition.

The COURT: Think it is admissible.

Mr. MCNAUGHT: I don't think it is strong enough to
170 justify an exception, but I thought it might be a circumstance in the case.

Cross-examination.

Court is adjourned until 10 o'clock to-morrow morning.

Part 7.

APRIL 17, 1886—10 a. m.

Continuation of direct examination of Capt. WATERBURY.

Mr. MCNAUGHT:

Q. There are one or two questions that I ommitted to ask. Were you in Victoria on December 8th?

A. Yes, sir.

Q. Were you on board of the steamer Idaho during the evening—say from five o'clock until eight?

A. Yes, sir.

Q. What, if anything, during that time was taken on board of the steamer?

A. Some barrels and some packages.

Q. Did you observe any marks on them as they were being taken on board at the time or soon after?

A. I observed on some of the barrels there were five or six marked ship's stores.

Q. What were you doing at the time? How did you come to observe them?

A. I was on board of the ship, down in the saloon, and when the drays came I heard them. I came up on deck. It was the opposite side of the ship, up the saloon hatch. They were taken aboard forward and put down the fore hatch.

Q. How did you happen to observe them; why did you observe them?

A. I observed them on account of their coming down that time of evening.

Q. Well, what were you doing there as inspector?

A. I was inspector.

Q. When they came aboard you examined them—that is, looked at them to see what they were?

A. A part of them; I did not look at them all.

Q. What did you find them to be?

A. Barrels with iron hoops.

Q. Ship's stores or freight?

A. Ship's stores they were marked—those that I looked at

171 Q. About how many barrels came aboard?

A. I think about 14.

Q. Did you count them to see?

A. No, sir; I counted about a dozen. I think there were one or two more. I did not exactly count the number.

Q. Some place in that neighborhood?

A. Yes, sir.

Q. How many times have you been aboard the steamer when she took in ship's stores at Victoria?

A. Have been there every trip with the exception of three trips that I was stopping at Tongass.

Q. Every trip for how long?

A. Last 20 months.

Since December, 1884.

Q. Was there anything unusual in those barrels that came aboard at that time or different from what you had seen come aboard before as ship's stores?

A. No, sir; there was a number of times that ship's stores came aboard the same way.

Q. Was there anything besides barrels came aboard that evening?

A. A few mats of rice, and one or two smaller packages—I don't know what the contents were—small boxes.

Q. Did they come down on these same drays that brought the barrels down?

A. They came down on one dray, the first dray. The second dray there was nothing but barrels on.

172 Cross-examination.

Questions by Mr. HANFORD:

Q. Did you usually come as far as Victoria this way or did you usually stop at Tongass?

A. I always came to Victoria and Port Townsend until last summer—in June, July, and August.

Q. Was it your custom to take notes of everything that went aboard at Victoria and Nanimo?

A. Yes, sir.

Q. Did you make a particular examination to find out the contents of the different packages that came aboard?

A. No particular explanation; no, sir.

Q. You relied on the marks on the packages to determine?

A. No, sir; I relied upon when they reached their destination to look at them.

Q. These barrels that you say were taken on board on December 8th marked ship's stores, did you ever pay any attention to them when they reached their destination to know what they really contained?

A. Yes, sir.

Q. When and where?

A. At Juneau and Sitka.

Q. Did you see them at Juneau and Sitka?

A. These same barrels you are speaking of?

Q. Yes, sir.

A. No, sir; I did not.

Q. Do you know what kind of ship's stores they contained?

A. Beef and pork is generally put up in those.

Q. Do you know what they contained?

A. I do not know, only from what was on the marks—ship's stores on the barrels there. I did not open them to examine them.

Q. Did you ever see them at any other time or place than at the time I speak of when they were taken aboard at Victoria?

A. No, sir.

Q. Did you make any particular inquiry after the vessel got into the Alaska district to find out whether these marks were true or false as indicating the contents of the barrels?

A. I did not.

173 Q. Do you know whether or not the barrels that you have mentioned as being ship's stores were taken on board at Victoria on December 8th; were entered on the ship's manifest or report made to the collector of customs at Sitka?

A. Not on the manifest.

Q. Were those barrels hooped with wooden or iron ho-ps?

A. Iron hoops.

Q. Are they the kind of barrels in which beef and pork is usually packed?

A. In Victoria; yes.

Q. Have you ever seen in Victoria or anywhere else beef and pork packed in iron-hooped barrels?

A. Yes, sir.

Q. Do you know what firm in Victoria furnish these barrels to the steamer?

A. The house of Valkenberg & Co.

Q. How do you know that?

A. They are the butchers.

Q. Do they have any brand or mark on the barrels to indicate that they come from their establishment?

A. I did not see any.

Q. Did you see any marks on these packages at all except ship's stores?

A. No, sir.

Q. Was that painted on the barrels or was it on a board or paper? How was it marked?

A. Painted with a brush—marking pot and brush.

Q. Just simply thise two words—ship's stores?

A. Yes, sir.

Q. That was all it was? Was that on the head of the barrel or side?

A. On the heads.

Q. Were they new or old barrels?

A. They were neither old or new. They were discolored, dark barrels, but they were clean.

Q. How much salt meat did the Idaho usually carry or receive during a month?

174 A. It depended a great deal on the number of passengers; sometimes from ten to a dozen. Fourteen or fifteen I have known her to take.

Q. Did she take barrels of salted meat for ship's stores every time she passed Victoria?

A. She took them at Victoria every time she arrived there.

Q. And from ten to twelve or fourteen a month?

A. Yes, sir.

Q. Is Victoria as goos a market to but salted meats as Port Townsend or Portland?

A. I believe it is some better.

Q. Are you acquainted with the market price and values of beef and pork in Victoria?

A. No, sir; but I understand they have a contract with the company.

Q. Do you know whether that is a more favorable contract than they could make on the American side?

A. I do not know, sir.

Q. Do you know whether this beef and pork furnished by the contractor is packed in Victoria, or is it brought from some other place?

A. I do not know except that it comes from their premises.

Q. What was the route usually taken from Nanimo to Tongass by the Idaho in going north?

A. She went up through narrows, through the inland waters—

Granville straits—crossing Queen Charlotte sound and Dixon's entrance. Tongass is lying at Dixon's entrance.

Q. Do you know the location of Dundas island?

A. It is a little to the south'rd or west'rd of Tongass.

Q. Which side of Dundas island would she pass in going north usually?

A. She would pass on the right-hand side.

Q. And in returning, after leaving Tongass, coming this way, which side of Dundass isalnd would she usually pass?

A. Pass on the left-hand side.

Q. In passing up that route how near would the steamer pass to Cape Fox?

A. The cape itself she will pass within two miles of.

Q. How near the cannery at Cape Fox would she pass?

A. About 25 miles.

175 Q. Have you never been ashore there at that cannery?

A. Yes, sir.

Q. Is there not a cannery located right at Cape Fox, near enough to be seen from the steamer in passing?

A. No, sir.

Capt. JAMES CARROLL, a witness for respondent, being duly sworn by the clerk, testified as follows:

Questions by Mr. McNAUGHT:

Q. What is your occupation?

A. Seafaring man, sir.

Q. Who for some years past has been master of the steamship Idaho?

A. I have, sir.

Q. On what route?

A. On the Alaska route.

Q. How long have you been running on that Alaska route?

A. About six years; made sixty-nine voyages.

Q. Sixty-nine round trips?

A. Yes, sir.

Q. From what points to what points?

A. From most every point around here; from San Francisco and Portland and Astoria, Seattle, Tacoma, Port Townsend, Victoria, Nanimo, Departure bay, Metakatla, Tongass, Cape Fox cannery, Kasson bay, and Ana bay, Gorguna, Samom bay, Red bay, Wrangel, Murderers' cove, Juneau, Douglass island, Claco, Chilkat, Bartlett's bay, Glacier bay, Killisnoo, and Sitka, and there may be some few landings around that I have forgotten.

Q. What was your usual route after leaving Nanimo for Sitka?

A. That would depend on where the cargo was going. Sometimes you would have a cargo for a place, and other times there would not be any, but usually our mail contract called to go from Port Townsend to Alaska. Of course, we would call at Victoria and Nanimo for passengers and freight and take on fuel and sup-

plies, etc.; but our mail contract called to go to Wrangel, Juneau, Killisnoo, Sitka, and return over the same route.

Q. Were you on the steamship Idaho on her December trip?

A. Yes, sir.

176 Q. To whom did the vessel then belong?

A. To the Pacific Coast Steamship Company.

Q. A corporation?

A. Yes, sir.

Q. Who were the general agents of that company in San Francisco?

A. Goodall, Perkins & Co.

Q. What time did you arrive at Victoria on your upward-bound trip?

A. I think it was the morning of the 8th of December, 1885. I cannot exactly say the exact hour; somewheres about ten o'clock. My log book will show all landings and times to the minute. I have here the places, courses steered, and wind and weather, how long I remained in each place.

Q. Can you by refreshing your memory give the time?

A. I can; the exact time.

(Book handed witness.)

We arrived at Victoria at five minutes past ten in the morning.

Q. During the day at Victoria where were you?

A. I was around the ship a good part of the day and up to the office, attending to business.

Q. How far is the dock at Victoria where you then landed from the business part of the town?

A. I should think that it would be in the neighborhood of a mile and a half.

Q. Where is that dock located?

A. It is what they call the outer dock, in the outer harbor at Victoria.

A. How long had you been in the habit of landing at that outer dock?

A. I should think it was in the neighborhood of two years; about that long since it was finished.

Q. Where were you during the evening of the eighth of December, 1885?

A. I was at the theater.

Q. Where?

A. The Victoria theater; I believe they call it, right alongside of the Driard house. I was there with Capt. John Irving and some others.

177 Q. What time did you leave the ship that evening?

A. I should think it was somewhere between six and seven o'clock. I cannot exactly remember the time; probably a quarter past six.

Q. What freight did you observe coming on board that day previous to your coming uptown that evening?

A. The only freight that I remember about particularly was a

lot of building material for the missionaries at Juneau. We had made previous arrangements—on the voyage before—to take it.

Q. Did you observe or see any barrels taken aboard the ship during the day of any description?

A. I did not.

Q. What time did you return to the ship in the evening?

A. I got down just about 12 o'clock midnight.

Q. When did you sail?

A. I sailed immediately on my arrival.

Q. Where does the ship and where did she prior to that time *tere* to buy her ship's stores on her voyage up to Sitka?

A. She gets her supplies of meats and fresh vegetables at Victoria.

Q. About what quantity of salt meats does she buy at Victoria each trip?

A. Depends a good deal on how many passengers I have; anywhere from eighteen hundred to twenty-four hundred pounds.

Q. About how many barrels would that be?

A. That would be from nine to twelve, probably.

Q. What else does she buy there in barrels?

A. Well, they have kegs of sausages, and there is generally a barrel or two of sauer-kraut, and there would probably be a barrel of salmon or two as the case might be; might get some mackerel.

Q. Do you know whether she purchased and ship's stores at Victoria in December?

A. She did; yes.

Q. Her usual supplies?

A. Yes, sir.

Q. Do you know when these ship's stores were brought on board?

A. I do not.

Q. Were they brought on board any time during the day while you were aboard of the ship?

178 A. They were not. As a general rule, they come down about the last thing, as we have but a short time there, from six to 12 hours. The steward was to go uptown, and he has to buy his vegetables, *a* etc., and it takes him some time to do that.

Q. How was your ship loaded on that trip?

A. She was pretty heavily loaded.

Q. Where did you first and at what port did you first land after leaving Victoria?

A. We landed at Nanimo.

Q. What cargo, if any, did you take in there?

A. We discharged considerable cargo there. We did not take in cargo there; probably we might have taken a package there. We discharged, probably, seventy or eighty tons of freight.

Q. Where did you go next?

A. Went over to Departure bay.

Q. For what?

A. For coal.

Q. How much coal did you take in there?

A. I think I took in about 300 tons.

Q. What, if anything, did you do at that time or prior to that time in regard to the restoring cargo of the ship?

A. Did not do anything at Departure bay. I had some difficulty with the cargo.

Q. What was it?

A. When I left the dock at Nanimo I gave orders to take on a certain amount of coal at Departure bay. I was gone three or four hours, probably not quite so long, and when I came back the first officer said, I have all the coal I can take. I asked how much he had in, and he told me—I do not recollect. I said, We must have more coal than that, and we must have more coal room in the ship than that. I figured up about how much freight there was, and I said, The ship is not well stowed. He said it was stowed as well as we could stow it. I said I would see about it myself. I was a little vexed over it, and I went to my room and took off my dress coat and put on a coat and went down in the hold, and the first and second officers were there, and we broke out a couple of hundred barrels in the hold and placed them on deck and
179 passed them on the dock at Nanimo, and we stowed th-m more snug and closer in the hold, and then I came on deck and gave orders to take in more coal, and we did take in our full supply of coal. We stowed them on the main deck and upper deck; anywhere we could stow them.

Q. Now, at that time or any other prior thereto did you discover any barrels or any freight of any kind aboard that had any unusual or extraordinary appearance or anything to attract your attention?

A. No, sir; I did not. As far as barrels were concerned, the ship was chuck-full of barrels. I had to carry them on my upper deck over my room, but I did not see anything strange about the freight to call my attention.

Q. Where did you go after leaving Departure bay?

A. I think we went to Tongass. I can tell by looking at my log.

Q. Look and let us know.

A. The first place we stopped and anchored was a place called Safety cove; put in there for stress of weather.

Q. Discharge or take on any cargo?

A. No, sir.

Q. Where next did you stop?

A. Next we stopped in a place called Swanson's anchorage.

Q. What did you stop there for?

A. For stress of weather; thick snow storms.

Q. Did you discharge or take on any cargo there?

A. No, sir.

Q. Where next did you go?

A. The next place we stopped was a- Kasson bay.

Q. Did you discharge or take on any cargo there?

A. We discharged a little lot of cargo. We had a little lot from Allen & Lewis and from McCracken & Co., of Portland.

Q. Do you remember about what it was that you discharged there?

A. Groceries, etc.

Q. How did you send it ashore?

A. In a small boat.

Q. Why did you do that?

A. Did it because it was such a little lot that it was easier and more convenient and take a shorter time for doing it, and, another thing, the tide was low along the dock.

Q. During that voyage, while you were in Victoria, and up to this who, if any person, was aboard as inspector of customs?

180 A. Capt. Waterbury was.

Q. How long did you remain at Kasson bay on this upward trip?

A. 31 minutes.

Q. Were any barrels discharged there from the ship at that time?

A. Not to my knowledge.

Q. Could it have been possible for any number of barrels to be discharged there without your knowing it?

A. No, sir; there could not.

Q. Where did you go next after leaving Kassan bay?

A. Went to Wrangel.

Q. How long did you remain at Wrangel?

A. 2 hours and 45 minutes.

Q. Do you remember about how much cargo was discharged there?

A. I do not.

Q. Where next did you go to?

A. Went to Juneau next.

Q. About what time did you arrive at Juneau?

A. We arrived at 11.58, 14th December, p. m.

Q. Who was at that time deputy inspector at Juneau, if any person?

A. Mr. Webster.

Q. Who at that time was on board your ship as inspector, if any person?

A. Capt. Waterbury.

Q. Who, if at all, during that time, had charge, is so far as the custom-house was concerned—at the time of landing and discharging your freight?

A. Capt. Waterbury.

Q. Did you discharge any freight at Juneau that night?

A. Yes; started right in to discharge immediately.

Q. How did it happen that you started in to discharge that night?

A. We always do it, sir.

Q. Always?

A. Always have been doing it; got a permit to do so—to discharge at any time.

Q. Where is the custom-house in the Sitka district located in Alaska?

A. Located in Sitka; that is where the custom-house is.
181 It is at the upper end of our route.

Q. You say, then, that you land at the various places you have mentioned and discharge freight before reaching Sitka?

A. We got permission from the Secretary of the Treasury to do so, as long as we had an inspector aboard.

Mr. HANFORD: That permission could only be granted, if at all, in writing.

Q. Have you that permit with you?
A. Yes, sir.
Q. Produce it.
A. It allowes me to land without going to a custom-house.

(Paper handed Mr. Hanford.)

Q. Is that the paper you have acted upon in landing?
A. Yes, sir.
Q. At all times since receiving it?
A. Yes, sir.
Q. Have you had any other paper?
A. I have got a copy of that.
Q. Who furnished that copy?
A. The company did, sir.
Q. The copy you have there, who furnished it?

A. This was furnished the custom-house—Maj. Morris. That was on file—the original. I have several. One to land Rev. Shelton's and Johnson's freight at one time in 1882.

Q. Where did you get that paper?
A. That was given to me by Maj. Morris.
Q. Who was he at the time of giving it to you?
A. Collector.
Q. What district?
A. Alaska.
Q. Do you remember when that was given you?
A. I do not recollect the date.
Q. Well, it was before December last?
A. Oh, yes.
Q. In whose possession has it been ever since?
A. It has been in mine, sir.

182 Mr. MCNAUGHT: We offer the two papers.

Mr. HANFORD: I object to them. There is no proof that these papers emenated from the person whose name is signed at the foot, and we maintain that the officers of the Government cannot make an order in direct violation of the laws of the United States.

The COURT: I think they are admissible for whatever they are worth as part of the *res gestæ*, but what value the court will attach to them in the case is another matter. They can go in.

(Papers marked Exhibit- "O" and "R.")

Q. State what facts or circumstances brought about the obtaining of these papers.

A. When I first ran to Alaska we only had two ports to land at. One was Wrangel and the other Sitka. They had custom-house officers at Wrangel to look after the discharge and loading of freight. That was the first place we went. The next place was Sitka. There was the principal custom-house, the collector. In the course of a year or so there were several fishing and trading places started up this side of the custom-house. According to law, I knew I could not land at those places without going to the custom-houses. I talked the matter over with the collector and there was correspondence with the agents below about it. We tried to get a custom-house at Tongass; it was at the lower end of the island—southeast end of Alaska—just got from British Columbia onto Alaska, but we could not make it for a long time, but finally the collector got an inspector appointed to travel on the steamers and to allow us to land freight without going to a custom-house.

Q. Who was that inspector appointed?

A. The inspector was Capt. Waterbury, who was on the steamer last December. The first inspector appointed was a man by the name of Elvins. I think he was a brother-in-law to Collector Morris.

Q. Well, under these arrangements with this special inspector aboard and with the deputy collector on at Juneau, you proceeded to land your freight?

A. Yes; as it was our custom.

Q. Do you know generally what freight that was discharged at Juneau?

A. I do not know, but it was merchandise of all kinds. It
183 would be impossible to enumerate without a freight book.

Q. Did you know anything or do you know anything about some freight there at that — which one C. R. Langtry wanted to have sent to any point?

A. I do.

Q. State what you know.

A. A short time after I had arrived, probably not to exceed half an hour, a gentleman came into my room and introduced himself as Langtry and said that he had some freight that he wished to land at Mr. Kinney's cannery at Cape Fox. He wanted to know if I would go in and take it. I *had*, How much have you got? He said he had probably a couple of tons. I said, We are not running in there; we have nothing to go in there for, and our tariff rates says we shall not call in there for less than $100 for freight. He said, That is rather high for three tons of freight. I said I could not do it for any less. I did not think it proper. Well, he says, are you going to land anywheres down about Naha bay or Kasson bay? I said I was going into Kasson bay for a load of salmon that is there. He said all right, he would ship it down there if it is all satisfactory. I asked what it was. He told me——

Q. What it was?

A. He said he had 14 barrels of skins; 10 to 12 bales. I did not recollect the skins and furs baled up. I happened to be on the deck

and he showed them to me on the dock with some other freight that was there.

Q. What was the other freight that was there?

A. There was some barrels of salmon, shipped by Mr. Reed to Juneau.

Q. Were the bales of fur with the salmon?

A. They were not; the bales of fur were in the corner of the warehouse.

Q. Inside?

A. Yes, sir.

Q. Where were these barrels at the time when you saw them?

A. They were outside of the warehouse.

Q. What were you doing in reference to discharging freight from the steamer at that time?

A. The freight was being discharged at that time.

Q. Where was it taken to?

184 A. In the warehouse; small warehouse.

Q. Where did you go after leaving Juneau?

A. Went over to Douglass island, what we call it; the mill there.

Q. Discharge freight there?

A. Yes, sir.

Q. What time did you arrive there?

A. We arrived there at six o'clock p. m. on the 15th.

Q. How long did you remain?

A. Six hours and 29 minutes.

Q. Do you remember what freight was discharged there?

A. I do not recollect; general merchandise and a good deal of machinery.

Q. Where did you go after leaving Douglass island?

A. We left for a place called Killisnoo.

Q. When did you arrive there?

A. At 11 o'clock and 10 minutes on the 16th, a. m.

Q. How long did you remain there?

A. We remained there 16 hours and 52 minutes.

Q. Do you remember what freight you discharged at that place?

A. There was general merchandise and then there were lots of barrels; any quantity of barrels.

Q. About how many?

A. Oh, I should think there were two or three hundred barrels and casks altogether; somewhere about that.

Q. Where did you go after leaving this place?

A. We went to Sitka then.

Q. What time did you arrive at Sitka?

A. At 11.36 a. m. on the 17th.

Q. How long did you remain there?

A. 36 hours and 25 minutes.

Q. Discharge any freight there?

A. Yes, sir.

Q. How was it, after arriving at Sitka and discharging your freight, as to having all the freight out of your ship?

A. All the freight was generally discharged when we were at Sitka.

Q. Do you remember whether all the freight was taken out of your steamship at Sitka or whether there was any left in her?

A. None to my knowledge.

Q. Did you take any freight there for the downward trip?

185 A. Yes, sir.

Q. Who came down with your ship that time as customs officer, if any?

A. Col. French, collector.

Q. Capt. Waterbury come down any portion of the way?

A. He came as far as Juneau.

Q. You came back the same way as you had gone up, or did you stop at the same places between Juneau and Sitka?

A. Yes; we went over the same route; came back to Killisnoo.

Q. What time did you arrive at Juneau on your downward voyage?

A. We anchored off the mill, first, at Douglass island. It was about three miles from the wharf, and we arrived there 11.16 in the night p. m. on the 19th.

Q. About how long did you remain there?

A. We remained there six hours and a quarter.

Q. Do you remember what freight was taken on at Juneau on your downward voyage?

A. Well, nothing more than these barrels of furs and bales of skins and salmon; there was a little of everything in the ship; products of the country.

Q. Do you remember about the quantity of salmon barrels?

A. I think there was 49 or 50.

Q. Then, leaving Juneau, where did you go to?

A. We started for Wrangel.

Q. When did you arrive at Wrangel?

A. At 11.48, December 21, a. m.

Q. How long did you remain there?

A. 2 hours and five minutes.

Q. Where next did you go?

A. Left for Kasson bay.

Q. When did you arrive at Kasson bay?

A. At 11 o'clock p. m. on the 21st.

Q. What freight did you take at Kasson bay?

A. We took on a lot of salmon.

Q. Do you remember about the quantity?

A. It was in the neighborhood of 300 barrels; 295 or 300 barrels.

Q. Did you discharge any freight from your ship at Kasson bay?

A. I did.

Q. What was it?

186 A. We discharged these barrels we *l*ook at Juneau, and these skins.

Q. Anything else?

A. Not that I know of; I think that was about all that was discharged there. What freight that was going off we discharged.

Q. Who was on board at that time as customs officers?
A. Col. French, collector.

The COURT: We will take a recess until half past one.

APRIL 17TH, 1886—1.30 o'clock p. m.

Capt. CARROLL—direct examination continued.

Mr. MCNAUGHT:

Q. What interest have you, Captain, in Kassan bay, Alaska?
A. Well, the only interest that I have got there is that the parties doing business there owes me some money.
Q. When did you advance them the money?
A. About two years ago.
Q. Who were the parties doing business there?
A. Mike Costrello and Fred. Lynch.
Q. Are they both doing business there yet?
A. Mr. Lynch is; Mike Costrello is dead.
Q. What business is Mr. Lynch conducting there, and was he conducting — in December last and prior to that time?
A. I suppose he was looking out for his interests in the fishing business.
Q. What business; the fishing business?
A. The fishing business; yes, sir; he has got a little store also—a trading post.
Q. To whom, then, does the cannery at Kassan bay belong?
A. It belongs to a widow lady by the name of Mrs. Bronowitch.
Mr. HANFORD: Naronovitch?
The COURT: Is it a Russian name?
A. I am not sure whether her husband was a Russian or not; it sounds Russian; yes, sir.
Mr. MCNAUGHT: Under what arrangements was the salmon barrels and salmon taken from there during the last year and during December of 1885?
187 A. Well, when I let them have this money they were to turn the salmon over to me, and I handled the salmon for them so as to secure me for the money lent; I to keep a certain amount, but to give them enough to keep the fishery going.
Q. At the time of landing the freight there and taking on the salmon in December, 1885, what was said by you, if anything, to persons about handling the freight?
A. I don't know as there was anything said.
Q. Do you remember whether you did or did not say to the persons handling the freight to be careful about handling it?
A. I might have said so; that is one of my general remarks when I go to the dock where there is freight handled and see them handling it roughly, to be careful and not break it up, to handle it carefully, because we have so much damage to pay on freight; very likely I might have said so.
Q. What, if anything, was said by you there at that time about

those barrels that were landed from the ship containing fur, and that you expected to bring any more there, or anything like that?

A. I never said anything of the kind, to my knowledge.

Q. Where did you sail for from there?

A. We sailed for Tongass, I think (refers to book).

Q. And from there to Victoria, or from there to Departure bay?

A. From Kasson to Tongass (refers to book), and from there we proceeded on to Departure bay.

Q. And from Departure bay to Victoria?

A. (Refers to book.) No; we left Departure bay for Nanimo.

Q. From Nanimo where did you go?

A. From Nanimo we left for Victoria.

Q. When did you arrive in Victoria?

A. We arrived in Victoria (refers to book) December 26th, at 9.08 a. m.

Q. How long did you remain there?

A. 2 hours and 53 minutes.

Q. Where did you go from there?

A. I went from there to Port Townsend.

Q. On arriving at Port Townsend, what, if anything, occurred with your ship?

188 A. We arrived at Port Townsend at 3.56 in the evening of the 26th. After the Dr. and inspectors had come and gone through the ship in the usual form, I went up to the custom-house and entered the ship.

Q. What occurred while you were there?

A. I told Mr. Harnard—I think that his name was—"I would like to clear my ship." He asked when I wanted to sail. I told him I thought I would be able to sail about 8 o'clock that evening. Well, he says, "come up about 7 and I will clear the ship." I says, "All right, sir." I went off and attended to my business. I went and got my dinner, and I went back along about 7 o'clock. He was then busily engaged with somebody else. When he got through I spoke to him, and he says, "I want to see the collector a moment." He went out in the office where they do business and went around into the collector's private office, I presume, and was gone some time. After he had left Mr. Gardner came in and introduced himself to me. He says, "My name is Mr. Gardner." Says he, "I have saw you several times, Capt., but never had the pleasure of meeting you before." He says, "I am an inspector." I says, "I am glad to meet you." He says, "Capt., I have got instructions from the collector to go and search your ship thoroughly." I says, "All right, sir; I will go down with you and introduce you to my officers." He says, "All right; I will go down in a few moments." I sat down in the chair and waited until he got ready, and got my lantern—it was quite dark—and went down and called all my officers, the heads of each department, on deck and introduced them to Mr. Gardner.

Q. That is, the officers—the officers of the ship, of each department?

A. Yes, sir. I says, "Mr. Gardner wishes to search the ship thor-

oughly." I says, "Gentlemen, you render him all the assistance he requires." I asked Mr. Gardner about how long it would take to search the ship. He said he didn't think it ought to take them more than four or 5 hours—3 or 4 hours; he did not know exactly how long. He said he would try and hurry the matter through as fast as possible.

Q. Well, they found some opium aboard, I believe; they found some opium on the steamer?

A. Yes, sir. I went up to the collector's office and stayed there awhile. Somebody came up; I don't remember who it was—came in with a little valise, I think it was, with some opium in it.

189 I asked who it belonged to, and they said they found it in somebody's room. I could not find out whose room it was, so I went down to the ship with Mr. Gardner, I think; and one of the inspectors had the watchman and the carpenter in charge. They fetched them up to the custom-house, and the collector and Mr. Gardner and several inspectors and myself were there. We held a kind of an investigation and come to the conclusion that the watchman didn't have anything to do with the opium. The carpenter said it belonged to him.

Q. And then was the carpenter taken before the commissioner?

A. The carpenter was taken before Judge Swan, I think his name is. Yes, sir; they had to go and get the marshal—had to call out the deputy marshal; he was in bed—called him and got a warrant and had him arrested and took him up there. By that time it was pretty near midnight, and Judge Swan bound him over to appear at the term of court at Port Townsend in March, I think it was, in the sum of $300.00. He asked the carpenter to give bonds. He said that he didn't know anybody. Well, he asked if I did. I said, Certainly, I know several people here. It was getting pretty late; it was very near midnight on Saturday night. "Furthermore," I says, "you can't get anybody to go on your bond without you give some kind of security." He says, "Certainly, I would not ask anybody to do it." He says, I have got money; I will put up the $300.00—(cut short).

Q. Was the money put up—the $300.00?

A. When he went down to the ship he got the money and give the money over to me to get somebody to go on his bonds. I went over to Bartletts', but Bartletts had closed up; and then the only place I could see a light was where I went, to Mr. Gale's—I think that is his name—and Mr. Gale and myself went on the bond of the carpenter, he being the only man I could find in town.

Q. What did you do with the $300.00?

A. Turned it into the bank.

Q. In Port Townsend?

A. Yes, sir.

Q. There was a Chinaman found with some opium there on the boat about that time, was there not, or soon after that?

190 A. I think about a day or two afterwards there was a Chinaman caught going up the street with some on him.

Q. Who went on his bonds?

A. I think Mr. Landes, of the bank.

Q. You did not?

A. No, sir; I did not. I was not asked to.

Q. Now, Capt., do you know anything about where the opium that was found on that ship came aboard it or who brought it aboard or when it was brought aboard?

A. I do not, sir; there was nobody more surprised than I was when it was found. I never thought there was any opium on board.

Q. Was there any circumstance brought to your attention at any time before your arrival at Port Townsend that there was opium aboard the ship?

A. There was not, sir.

Q. Was there anything either in the appearance of the freight aboard the ship or any other circumstance indicating to you that there was any opium on board the ship at the time you left Victoria on the 8th of December?

A. There was not, sir.

Q. What was your conversation with Capt. Beecher about wanting to go on to Portland with your ship before having the cargo searched?

A. I had several conversations with Capt. Beecher. I think that one occurred on Sunday. That was the time that they had gone all through the ship and part of the cargo. I am not sure whether it was Sunday or Monday. It was either Sunday or Monday. I said to the Capt. I thought that now as they had overhauled all the ship that could be conveniently overhauled without discharging the coal to make a thorough search. I suggested to him to put some inspectors, just as many as he wished, on board and seal and batten up the hatches of the ship and send her around to Portland, where her cargo was destined, and *and* there she could be discharged without any expense to the Government or any extra expense for the ship. The Capt. told me, That's all very well——(cut short).

Q. You told him that you would carry around the inspect-
191 ors and carry them back free of charge?

A. Yes, sir.

Q. What was your object in doing that, Capt.?

A. Well, I didn't want to lay there any longer tha*t* it was possible, because it was very expensive lying there, and I was behind time. I wanted to save expense, and, furthermore, I didn't think there was anything in the ship.

Q. More than what had been found?

A. Yes, sir; I told him if there was anything there the collector over there would be able to find it. He said that his people had worked out this case very thoroughly, and if he had done that that the collector over there would get all the glory and they would get the soup.

Q. What was said, if anything, in those conversations about the salmon that was aboard the ship taken on at Casson bay?

A. The salmon—after they had overhauled almost everything else, of course the salmon was discharged and put in a warehouse.

They had overhauled the ship thoroughly, and I understood, I think, from Mr. Gardner, I am not sure, that they were going to overhaul the salmon. I went up on the afternoon—I don't remember what day it was—I went up and I met Capt. Beecher and Mr. Gardner in his office and I asked them that question. No; I went in and says, "Capt., I want to ask you a favor, a personal favor." The Capt. says, "Don't strike me that way." I says, "I have got to." I says, "I understand you are going to overhaul this salmon. If you do I would like to have you have a man that understands the business to overhaul it, as by opening the barrels the pickle will run out and the salmon will spoil." I says, "If it is necessary I will put up bonds to the amount of $10,000.00 that there is nothing in that salmon."

Q. Then what did you do about the salmon? Did they overhaul the salmon?

A. They let it go without examination. They told me there they wouldn't overhaul the salmon and they did not.

Q. They did not?

A. No, sir.

Q. Then you went on to Portland and discharged cargo?

A. After they had got all through.

Q. All through?

192 A. Yes, sir; after they had overhauled my coal and all there was in her—after they had turned her wrong side out and upside down. It appears to me they began to find a little opium all over the ship. I began to think after a while that she was full of opium.

Q. What were the facts concerning your conversation in the hearing of Mr. Gardner or to Mr. Gardner about hearing something fall overboard? What did you do to ascertain the condition of things and when was that?

A. Well, I had occasion to get up one night—I don't remember what time it was, but it was along in the middle of the night—after midnight, I think—and I put on my overshoes and I went aft, and as I was going aft I thought I heard a splash in the water, and where I was standing at the time—I was standing about over where the aft port would be. I went down immediately to see what was going on down there. I thought probably there was something crooked going on and I went to see what it was.

Q. When you got down there what did you find?

A. I did not see anybody, but the next morning I reported this fact to Mr. Beecher and Mr. Gardner, I think.

Q. Well, after getting through at Port Townsend and going to Portland did you make another trip to Alaska?

A. I did; yes, sir.

Q. In the steamer Idaho?

A. Yes, sir.

Q. How many trips to Alaska have you made since December?

A. I have made three (hesitates); yes. This is April, is it not? Yes, sir; this is April. I went up in January, February, and March—three trips.

Q. How often during this time were you in Kassan bay?
A. I think I have been there twice; I think so.
Q. Twice?
A. I think so.
Q. When was the last time you were at Kasson bay?
A. My last trip.
Q. The last trip down or up?
A. Up; yes, sir.
Q. The last trip up?
A. Yes, sir.

193 Q. Know the persons mentioned here in the testimony as the coopers at Kassan bay?

A. I know of two coopers there. Yes, sir; there is two coopers there.
Q. Two who were there in December last?
A. Yes, sir.
Q. Did you see these two coopers the last trip you made past Kassan bay?
A. I did.
Q. Where?
A. At Kasson bay, at the cooper shop.
Q. Do you know anything about whether they have ever been away from there since December?
A. I don't know, sir. I did not ask that question.
Q. Are there any other fisheries in Alaska except this one at Kasson bay?
A. Oh, yes, sir; several.
Q. Are you interested in any of those fisheries except that one at Kasson bay in any way?
A. There is a fishery that I have let the man have some money up at Takaou.
Q. Are there any or many Chinamen in Alaska?
A. There are quite a number; yes, sir.
Q. Did you purchase a boat at Port Townsend at any time during the last 4 or 5 months?
A. I did, sir; yes, sir.
Q. What kind of a boat?
A. It was a fishing boat decked over, with a spar over it—rigged in the shape of a sloop.
Q. Who did you purchase that for?
A. For Mr. Fred. Lynch, at Casson bay.
Q. At Casson bay?
A. Yes, sir.

Cross-examination.

Mr. HANFORD:

Q. What officers does the Idaho usually carry, sir?
A. Sir?
Q. What officers does the Idaho usually carry?
A. She carries a capt., a first, second, and third officer, and a pilot

on deck; that is the deck officers, and then she carries, in
194 the engine-room, a first, second, and third assistant engineer; I think there was a third. I would not be positive on that question; I think so. In the steward's department she carries one chief steward and a carpenter, a purser, and a freight clerk. I suppose they classify them generally as officers.

The COURT: Freight clerk?

A. A freight clerk; yes, sir.

Mr. HANFORD:

Q. Whose duty is it to *pyrchase* supplies for the ship?

A. The steward's.

Q. Who pays for the supplies bought by the steward for the ship?

A. Goodall, Perkins & Co.

Q. Through whose hands do the parties receiv*ing* the money? Does the purser pay the bills?

A. There is some bills he pays. I don't think he pays these store bills, the provision bills over there, as they are large bills.

Q. They are sent to the company?

A. I think so; I would not be sure; I am not sure they pay the bills. We have to audit the bills.

Q. Do you audit the bills?

A. I do; yes, sir.

Q. And they are certified to you by the steward?

A. By the steward, if they are purchased in his department; by the engineer in his department, and by the first officer in his.

Q. Do you know whether or not any stores were purchased in Victoria on Dec. 8th?

A. I beg your pardon.

Q. Do you know whether any stores were purchased for the ship on Dec. 8th at Victoria?

A. I do; yes, sir.

Q. Do you know from whom they were purchased?

A. Well, from different parties, I think. There was some purchased—meats, I think, was got at Volkenberg's. There was fish purchased from some person else; I don't know the names.

195 Q. Do you know where Van Volkenburg's establishment is in Victoria—what street it is on?

A. I think it is on Government street.

Q. Near what other street?

A. That I would not be positive of. I don't know the names of the streets there particularly; only this one street called Government street. That is the principal street. I think there is a street called Wharf street, where Mr. Rithet's office is. That is the only 2 streets that I know the names of.

Q. In going north in December, what is the first point the steamer touched at after passing Departure bay?

A. (Refers to book.) You mean the first place we stopped after leaving Departure bay?

Q. The first place you stopped after leaving Departure bay.

A. (Refers to book.) Safety cove.

Q. What time was consumed in running from Departure bay to that place—how many hours?

A. 24 hours and 41 minutes.

Q. How long were you delayed there?

A. 7 hours and 15 minutes.

Q. Is that point on your usual route of travels?

A. It is off our route. It is where we go in occasionally for shelter in case of a storm or bad weather, especially when we break down. We stop there.

Q. Is there any settlements there?

A. No, sir.

Q. What time was it when you landed there?

A. (Refers to book.) 5 o'clock and 10 minutes in the morning of Dec. 12th.

Q. And where did you next stop?

A. We anchored at a place called Swanson's anchorage.

Q. At what time?

A. At 5 o'clock that evening of the 12th.

Q. How long were you delayed there?

A. We stayed there 4 hours and 14 minutes.

Q. What was the next point you stopped at?

A. (Refers to book.) The next point was Casson bay.

Q. Did you touch at Tongass in going north that trip?

A. No, sir; we did not.

196 Q. How did you happen to miss it?

A. We had nothing for there particularly.

Q. You are not required to leave the mail there?

A. No, sir; we have got no mail contract for there.

Q. Through what divisions of water or bays or inlets—bays or inlets of water—do you pass between Departure bay and Casson bay?

A. We pass through a great many.

Q. Just follow your log through and give the court the names of the different bodies of water that you pass through.

A. I have not got the names of the channels in my log, but I can remember them, pretty near all of them.

Q. Yes, sir.

A. After we leave Departure bay we come into the gulf of Georgia, and we come along and go through Johnson and Brotum straits, and so on to Queen Charlotte sound and Fitch sound and Lina passage and Millbank sound, and we go on to High Hish narrows and McKay's beach, Wright sound, Granville channel, Chatam sound, and across Dixon's entrance, Tongass narrows, and part of Clarence straits.

Q. Do you return through the same waters?

A. Usually do; yes, sir.

Q. Did you in returning that trip?

A. Yes, sir; I think we did.

Q. Which side of Dundas island did you pass?

A. On the east of it.

Q. How near to Cape Fox did you pass?

A. (Refers to book.) We passed off Cape Fox from a mile and ½ to 2 miles.

Q. What is the name of the waters that surround Cape Fox on each side of it?

A. Dixon's entrance. That is what we call that.

Q. It projects right into Dixon's entrance?

A. Yes, sir.

Q. In going north, do you pass Cape Fox before or after reaching Tongas?

A. In going north?

Q. Yes, sir.

197 A. No, sir; Tongas first. You mean Fort Tongas, where the custom-house is?

Q. Yes, sir.

A. We always go to Tongas first.

Q. In going northward you go to Tongas before passing Cape Fox?

A. Yes, sir; if we stop there; yes, sir.

Q. What is the distance—the relative or approximate distance—as near as you can give it, from Cape Fox to Tongas?

A. From Cape — to Fort Tongas I should think it would be 8 miles. That is only guessing at it. I could not tell within a mile or two.

Q. You can tell tolerably accurately, can you, by the time the steamer makes in running that distance?

A. Yes, sir; within a mile or so, modified by the variations of wind, weather, and tide, &c.

Q. In going northward, do you pass Cape Fox before or after going into Casson bay?

A. We could not go into Casson bay without passing Cape Fox, and in coming this way, after leaving Casson bay, we pass Cape Fox.

Q. After leaving Casson bay?

A. Yes, sir.

Q. And between Tongass and Casson bay, is it?

A. Cape Fox?

Q. Yes.

A. Yes, sir.

Q. What is the distance from Cape Fox to Casson bay, as near as you can give it approximately?

A. (Refers to book.) I should judge it was about 50 miles; probably 52 or 3 miles.

Q. Did you touch at Fort Tongass on your return from Alaska in Dec.?

A. I did. I have made a mistake in that distance there.

Q. Give us the best estimate you can of that.

A. (Refers to book.) It is about 80 miles.

Q. It is about 80 miles from Casson bay to Cape Fox?

A. About that; yes, sir.

Q. And about 8 miles from Tongas to Cape Fox?

198 A. I should think somewhere about that.

Mr. HANFORD: I wish to introduce a chart. It has been mutilated some, but I will manage to have it mended. I would like to ascertain from Capt. Carroll whether it is anywhere near correct as a chart. (Shows chart to Mr. McNaught.)

The WITNESS: I have got one the same as that down in the office that is not broken up.

Q. Is this tolerable accurate as an outline map?

A. No, sir; it is not; we have no accurate map of Alaska. There is none. This part of it here is (showing)—down here—this is Cape Fox down here (showing). Here is Cassan bay (showing). There is nothing at all like it, not the least bit in the world. These islands are all out (showing on the chart).

Q. You could not on this chart describe the course of the ship between Wrangel and Dixon's inlet so the court would understand?

A. Oh, yes, sir; I could draw it on there.

Mr. HANFORD: Then it will do for the purpose.

The chart offered is tacked on the blackboard.

Q. I wish you would m-ke pencil marks to indicate the course of the steamer from Wrangel to as far as Dundas island.

A. (Witness proceeds to show on the chart.) In making her trip from Wrangel, in coming this way (showing), here is Wrangel, there is Wrangel island (showing), and this pencil mark that I have already made in the course that we go right direct, right up through this way (pointing) and up there (pointing), I have not made it quite to Dundas island; it ended up at Cape Fox. Here is Dundas island, and here it goes straight this way (showing).

The COURT: Where you are is the southeast on the map, isn't it?

A. This is the S. E. part of the map down here (showing). This is Dundas island here (showing); that is in British territory (showing).

Q. Where is Kasson bay?

A. Kasson bay is up here (showing).

Q. This is not a correct outline of the map?

A. Oh, no.

The COURT: It does not profess to be where those dotted lines are?

A. If we put the parallel pullers on there we cannot steer a course at all; we are liable to go ashore.

Q. On your return trip what time did you get into Kasson bay?

A. Coming down?

199 Q. Yes.

A. (Refers to book.) I arrived there at 11 o'clock p. m. Dec. 21st.

Q. How long did you remain?

A. 2 hours and 43 minutes.

Q. Did you see the barrels landed there?

A. I seen some barrels landed there and some furs.

Q. Were those barrels similar in appearance to the ones you saw in the custom-house in Port Townsend?

A. They were not.

Q. How are they different?

A. They did not seem to be as large as they were.

The COURT: Which not so large?

A. The ones landed at Kasson bay did not seem to be quite as large as the others. Of course I did not examine them very closely, as close as I did these at Port Townsend; just took a look at them occasionally as they were rolled out with the other freight.

Q. Were the barrels landed at Kassan bay marked?

A. That I don't know, sir.

Q. You observed no marks?

A. I did not know, sir.

Q. Did the owner or the man that spoke to you about carrying this freight take passage on the steamer and go with the freight to Kassan bay?

A. No, sir; he said he was coming down in a short time.

Q. Did you see him at Juneau as the steamer was coming down?

A. When I came back I did not; no, sir.

Q. The only time you saw him was when the steamer was going up?

A. When I was going up that evening.

Q. Were you acquainted -ith that man before that?

A. I don't know as I met him before; I might; I don't remember of it.

Q. Have you ever seen him since?

A. I have not, sir.

Q. Do you know whether he paid the freight on the barrels?

A. I think he did, sir; if he did not I think I would have heard it.

The COURT: What do you say his name was?

A. Langtry.

200 The COURT: His first name?

A. I don't know his initials, sir. He came and introduced himself as Mr. Langtry to me, sir.

The COURT: The freight book has the initials.

Mr. HANFORD: The freight book has it Charles R.

Q. Have you ever been to that fishery at Cape Fox?

A. Yes, sir.

Q. Do you know the owner*w* of it?

A. Yes, sir; I know some of them. It is an incorporated company, I think.

Q. Did this man Langtry represent himself to you that he lived there?

A. He did not; no, sir.

Q. Did he give any reason why he wanted this stuff sent to Cape Fox?

A. He stated he had some more goods there and he expected a small trading schooner up from the sound here for his goods.

Q. During the time that the Idaho was being searched at Port Townsend did you have frequent conversations with Collector Beecher and Mr. Gardner?

A. Oh, yes, sir; I was in the collector's office most of the time, I think.

Q. And did you know, as a matter of fact, that from information they had they expected to find a considerable amount of opium in the ship?

A. That is the way it looked to me; they gave me to understand there was a ton or two of it there, as near as I understood.

Q. During this time did you mention to them or tell them anything about this transaction or meeting this man at Juneau and carrying this freight for him over to Casson bay and landing it there?

A. No, sir; I did not.

Q. Is there a wharf at Casson bay?

A. There is; yes, sir.

Q. Who owns that wharf?

A. Mrs. Bromwitch, I presume.

Q. Who owns the wharf at Juneau?

A. I own part of it.

201 Q. Do you own several other wharves in Alaska?

A. Yes; I am interested in several others.

Q. Did you see Collector French during the time the freight was being put ashore at Cassan bay?

A. Collector French and Capt. Nichols had both been in my room just as I went ashore. I don't remember whether they went ashore with me or not; that I would not be positive of.

Q. They were up, were they, when the steamer landed there?

A. I think they were; yes, sir.

Q. Have you ever represented or reported to Goodall, Perkins & Co., of San Francisco, that you owned or had control of the fishery at Cassan bay?

A. I think not, sir.

Q. Did you ever report to them or represent to them that you had taken that fishery in paying for a debt due you?

A. I wrote to them and told them how I got into the fishing business; that I had lent my money to these people and had to handle the fish to get out.

Q. Was your attention ever called to a report published in the newspapers, purporting to have been obtained from Goodall & Perkins' office, in San Francisco, in regard to the seizure of the Idaho, which contained a statement to the effect that Capt. Carroll had become the owner or obtained control of the fishery at Cassan bay in payment for a debt to him?

A. I think very likely my attention has been called to a great many articles in the newspapers lately about that fishing business.

Q. Was that statement published in the San Francisco papers; was that correct?

A. It was not in every sense of the word; it was not correct—no, sir—for I did not own the fishery in any way, shape, or form.

Q. Who is the manager of the business at Casson bay?

A. The man that has got it leased.

Q. What is his name?

A. Fred. Lynch.

Q. Did you advance the money to buy this sloop—your own money?

A. Yes, sir; the money from the salmon, that I got for this salmon.

Q. You bought her for use at that fishery?

A. He gave me an order to buy a fishing boat and I thought this was a cheaper bargain than to buy a fishing boat for him.

202 Q. When you went up in January, did you land some freight at a place called Pratt's?

A. In January (hesitates; refers to book), Naha bay; yes, sir; the ship stopped there.

Q. Did she stop there before or after going to Cassan bay?

A. After going into Cassan bay.

Q. Did it occasion any deviation from the regular course of the ship to go into Cassan bay first?

A. Not in particular; sometimes we go to Casson bay and sometimes to Naha bay, *vice versa;* it depends on the tide, on the time of day, and so forth, a good deal.

Q. Is Naha bay located on that chart?

A. Yes, sir.

Q. Look at it and see if the position is approximately correct as it bears from Casson bay.

A. (Witness examines chart.)

Q. This point here is marked Pointers' cape?

A. (Witness shows on chart.)

Redirect examination.

Mr. McNaught:

Q. Who was Capt. Nichols, who was with you on that down voyage?

A. He is lieutenant of the navy, sir.

Q. In charge of a revenue cutter?

A. No, sir; he has charge of the steamer Pinta, a little gun-boat.

Q. Stationed in Alaska?

A. Yes, sir.

Q. Was there anything unusual in this shipment from Juneau to Cassan bay that would attract your attention to it as being anything wrong about it?

A. Nothing particular; no, sir; nothing.

Q. Do you know anything about the contents of those barrels other than what was said to you by Mr. Langtry?

A. I do not.

Q. Had you any reason to believe that those barrels contained anything else but fur?

203 A. No, sir; I had not.

Q. How far is the cannery at Cape Fox from the usual route that you traveled in going from Casson bay to Tongas?

A. The Cape Fox cannery lies on the Bokadaquadra; it may be somewheres in the neighborhood of 20 miles.

Q. On your right?

A. About that, I should think; yes, sir.

Mr. McNAUGHT: That is all.

The COURT: Capt., did you know of the seizure at Casson bay at the time your ship was searched?

A. No, sir.

Mr. HANFORD: The seizure was made after.

The COURT: It was subsequent. I have no other question.

Mr. HANFORD: There is one other question I would like to ask.

Q. What number of men, all told, does the Idaho carry as making her ship's company; how many seamen and firemen, &c.?

A. I think we average along about 46, along there; sometimes we have more and sometimes less.

Mr. HANFORD: That is all.

The COURT: How many of those officers on board the Idaho at the time of the search for this opium at Port Townsend are now in the service of that ship?

A. Well, I don't think there is anybody in her now, sir.

The COURT: Except yourself?

A. I am not in her now, sir.

Mr. McNAUGHT: She is taken off entirely, sir.

A. She is on the way up here now from San Francisco.

The COURT: How many are in the employ of the company at present?

A. I think only one or two; two officers, I think, and according to my letters from the company there won't be many at all.

Mr. McNAUGHT: In taking in coal and discharging freight along the line of your route, as a rule where do the stevedores and other persons take their meals?

A. Generally on board the ship. Coaling ship at Nanimo
204 we have a great many coal trimmers; we feed them on the ship.

Q. How is it as to discharging—where you discharge freight along the line of the road?

A. We don't have many employed only where we have a big lots of freight, such as Juneau. Of course we — quite a number of longshoremen and Indians to help on the freight. They board the ship. In fact, our ship is a general boarding-house when she gets into Alaska.

Mr. McNAUGHT: That is all.

Mr. HANFORD: That is all.

Capt. WATERBURY recalled for the respondent.

Mr. McNAUGHT:

Q. When the ship had arrived at Sitka and discharged the Sitka freight what, if anything, in the shape of freight was left in the ship?

A. There was nothing left in the ship excepting one or two packages that had been carried by—some iron, I think; some small pieces of iron.

Q. Were the barrels that were shown us by Mr. Hanford at Port Townsend the same barrels that you saw come aboard the ship between 6 and 8 o'clock, in Victoria, on the evening of the 8th of December?

A. I didn't look at them.

Q. In your best judgment were they the same barrels?

A. No, sir.

Mr. McNAUGHT: That is all.

Mr. HANFORD: No questions.

Capt. JAMES CARROLL recalled in behalf of the respondents.

Mr. McNAUGHT:

Q. Was there any freight or merchandise ommitted from the manifest taken on in Victoria, to your knowledge?

A. Not that I know of, sir. All freights at Victoria that comes on the ship is generally cleared at the consul's. It is rarely we receive it till we have the consul's clearance or certificate from there; something to indicate that it has been cleared from the consul before we receive it——(cut short).

Q. There was nothing ommitted that you know of at all?

(No answer.)

Mr. McNAUGHT: That is all.

205 Mr. HANFORD: No questions.

Mr. McNAUGHT: We rest.

Mr. HANFORD: I will recall Mr. GARDNER:

Q. Upon what street in Victoria is this China house?

A. On Government street.

Q. Do you know the location of the butcher shop kept by Van Volkenberg in Victoria?

A. I do.

Q. What street is that situated on?

A. On Government street.

Q. Which establishment is nearest that landing?

A. The butcher shop, Van Valkenberg's.

Q. Would a dray in going from the China house to where the S. S. Idaho was moored on the night of the 8th of December necessarily pass the butcher shop if it went down Government street?

A. It would.

Q. Was that the nearest and most direct route to go to the steamer?

A. That is the direct route; yes, sir.

Cross-examination.

Mr. McNAUGHT:

Q. Do you know whether they always go down Government street or not?

A. I don't know whether they go down that street.

Q. You don't know?
A. I don't know what street the drays follow.

Mr. McNAUGHT: That is all.

Mr. McNAUGHT: There is one question which I want to ask Capt. Carroll which I forgot: When, if ever, he was in a Chinese opium-house in Victoria.
Mr. HANFORD: I have no objection.

Capt. CARROLL recalled.

Mr. McNAUGHT:

Q. When, Capt, if ever, were you in a Chinese opium-house in Victoria?
A. I don't think I ever was in one; I don't remember of being in one, to my knowledge. I never was in Chinatown but once in my life.
206 Q. When was that?
A. That was with William Goveneur Morris, a few years ago, when he was looking for a servant. He was going to take it to Alaska with him.

Mr. McNAUGHT: That is all.
Mr. HANFORD: No questions.
Mr. HANFORD: We rest.
Mr. McNAUGHT: We rest.

The counsel in the case and the court consult concerning the manner and the time for the argument of the case; at the close of which it is agreed that the case will be submitted upon written briefs as at such time as the counsel may agree.

207 TERRITORY OF WASHINGTON, } ss:
County of King, Third Judicial District, }

We hereby certify that on the 14th day of April, 1886, we, A. C. Bowman and Wm. D. Wood, were appointed as deputy clerks of the district court of said judicial district, holding terms in said King county, by the clerk of said court under an order of the court made with the consent of the respective proctors and advocates in the cause in which the foregoing testimony was taken, to report in short-hand and transcribe from short-hand into long hand the oral proceedings and testimony in said cause.

That we were, before entering on the performance of such duties, duly sworn to faithfully perform the same in so reporting and transcribing said proceedings and testimony.

And we further certify that we so reported and transcribed all the oral proceedings and testimony taken and had upon the trial of the said cause in said court, and that the foregoing attached transcript from page one to page 135, inclusive, is a full, true, and cor-

rect transcript of all of the oral proceedings had and testimony given and taken upon the trial of the said cause in open court.

Witness our hands this 15th day of November, A. D. 1886.

WM. D. WOOD, *Stenographer.*
A. C. BOWMAN, *Stenographer.*

208 I, Roger S. Greene, judge of the district court of the third judicial district of Washington Territory, holding terms at Seattle, hereby certify that the within and foregoing record from page 1 to page 136, inclusive, contains all the material facts upon which said cause was heard and determined and contains all the evidence in said cause and includes the testimony reported by A. C. Bowman and Wm. D. Wood, deputy clerks — said court, and that the exhibits filed and marked as follows:

"A," same being Lai Yuen label, printed slip.
"B," " burlap sacks (14).
"C," " opium can (small copper).
"D," " " "
"E," " " (large tins).
"F," " " (small copper).
"G," " Daily British Colonist, Nov. 28, 1885.
"H," " paper-writing, copy record # 4789, dist. court, Seattle.
"I," " paper-writing, copy record # 4783, dist. court, Seattle.
"K," " U. S. Com'r Swan's report.
"L," " inward foreign manifest (Idaho).
"M," " coasting manifest "
"N," " old newspaper printed.
"O," " manifest of cargo, bound book, — pages.
"P," " " " unbound leaves.
"Q," " written permit to touch ports.
"R," " telegram " "
"S," " chart, map Chatham straits.
"T," " paper-writing, inward foreign manifest,

are all the exhibits filed in said cause and used as evidence herein, and that the foregoing is all the evidence upon which said cause was heard and determined.

Witness my hand and the seal of said court this twelfth day of March, A. D. 1887, at seven o'clock a. m. of said day, at my office in Seattle, King county, Washington Territory.

[Seal Dist. Court.]

ROGER S. GREENE, *Judge, &c.*

209 I, James Seavey, clerk of the district court of the third judicial district of Washington Territory, holding terms at Seattle, hereby certify that the within and foregoing record from page 1 to 136, inclusive, contains all the material facts upon which said cause was heard and determined and contains all the evidence

taken in said cause and includes the testimony reported by A. C. Bowman and Wm. D. Wood, deputy clerk- — said court, and that the exhibits filed and marked as follows:

"A,"	same being	Lai Yuen lab*le*, printed slip.
"B,"	"	burlap sacks (14).
"C,"	"	opium can (small copper).
"D,"	"	" "
"E,"	"	" (large tin).
"F,"	"	" (small copper).
"G,"	"	Daily British Colonist, Nov. 28, 1885.
"H,"	"	paper-writing, copy record # 4789, dist. court, Seattle.
"I,"	"	paper-writing, copy record # 4783, dist. court, Seattle.
"K,"	"	U. S. Com'r Swan's report.
"L,"	"	inward foreign manifest (Idaho).
"M,"	"	coasting manifest.
"N,"	"	old newspaper printed.
"O,"	"	manifest of cargo, bound book, — pages.
"P,"	"	" " unbound leaves.
"Q,"	"	written permit to touch ports.
"R,"	"	telegram " "
"S,"	"	chart, map of Chatham straits.
"T,"	"	paper-writing, inward foreign manifest,

are all the exhibits filed in said cause and used as evidence herein, and that *that* the foregoing is all the evidence upon which said cause was heard and determined.

Witness my hand and the seal of said court this twelfth day of March, 1887, at 11 o'clock of said day, at my office in Seattle, King county, Washington Territory.

[Seal Dist. Court.]

JAMES SEAVEY, *Clerk*,
By JAMES P. LUDLOW, *Deputy*.

210 In the District Court, Holding Terms at Seattle, Washington Territory.

THE UNITED STATES OF AMERICA *vs.* THE STEAMSHIP IDAHO, ETC.; JAMES CARROLL, Claimant. } No. —. Costs of Reporting Testimony.

To 3½ days' service in court and testimony in short-hand; usual rate, 10 dollars per day; court ordered ½ usual rate, to be taxed as costs in cause. 3½ days, at $5.00 per day.. $17 50

To transcript of oral testimony, 705 folios; usual rate, 20 cts. per folio; court, ½ rate, to be taxed as costs in cause. 705 folios, at ten cts. per folio..... $70 50

Total taxable costs 88 00

The above services were rendered by A. C. Bowman and Wm. D. Wood, stenographers employed therefor by the clerk of the court pursuant to the order of the court made at the time of trial, directing the clerk to have the testimony reported in short-hand and transcribed and ordering that the costs thereof at ½ the usual rate be taxed as costs in the cause.

The above statement of services is correct.

May 20th, '86.

WM. D. WOOD.

On the back of the foregoing statement is endorsed the words and figures following, to wit:

In the district court at Seattle. United States *vs.* Steamship Idaho, etc. No. 4799. Statement of costs of reporting testimony. James Seavey, clerk, by James P. Ludlow, deputy clerk.

211 Journal M, p. 40, December (-th, '86).

THE UNITED STATES OF AMERICA *vs.* THE STEAMSHIP "IDAHO," HER ENGINES, Boilers, Tackle, Apparel, and Furniture; James Carroll, Master, for the Pacific Coast Steamship Company, Owner, Claimant.	No. 4799. Findings and Decree.

Now, on this 9th day of December, 1886, this cause having been tried and submitted to the court and taken under advisement, and the court, having heard and considered the allegations of the parties and proofs adduced and the arguments of counsel on the part of the claimant as well as on the part of the libellant and being now sufficiently advised in the premises, finds that the following are the material facts established in the cause, viz:

I.

That between the 1st day of December, 1885, and the 1st day of January, 1886, the steamship Idaho, whereof James Carroll was then master and the Pacific Coast Steamship Company was then owner, was regularly employed in carrying passengers and freight between the port of Portland, in the State of Oregon, and the port of Sitka, in the Territory of Alaska, via the port of Port Townsend, in Washington Territory, the ports of Victoria and Nanimo, in British Columbia, and other intermediate ports.

II.

That said steamship Idaho made a voyage on said route from Portland to Sitka and return under the command of said James Carrol in the month of December, 1885.

III.

That during the progress of said voyage of said vessel, on the 20t- day of December, 1885, after the setting of the sun and be-

tween the hours of 10 and 12 o'clock p. m. of said day, certain merchandise, to wit, fourteen barrels, containing three thousand eleven and one-half pounds of prepared opium, of the value of $36,138.00, were, with the knowledge, consent, and assistance of said James Carroll, who was then master of said vessel, unladen and discharged from out of said steamship Idaho at a place
212 called Kassan bay, in the Territory of Alaska and within the collection district of Alaska.

IV.

That said merchandise was brought in said steamship Idaho to said place called Kassan bay from the port of Victoria, in the province of British Columbia.

V.

That said merchandise was and is of foreign growth and manufacture and subject to duty upon being imported into the United States and the duty thereon was not paid or *d*secured to the United States at any time prior to the unlading thereof as aforesaid.

VI.

That no permit was ever granted by the collector of customs for the district of Alaska or any officer of the customs *o*f other officer of the United States for the unlading or discharge of said merchandise.

VII.

That the value of said merchandise at Kassan bay aforesaid on the 21st day of December, 1885, was a sum greater than four hundred dollars.

VIII.

That the unlading and discharge of said merchandise at said time without a permit was not caused or rendered necessary by any accident, unavoidable or otherwise, necessity, or distress.

IX.

That afterwards and during the progress of the same voyage, on the 26th day of December, 1885, at the port of Port Townsend, in the Territory of Washington and within the collection district of Puget sound, certain merchandise, to wit, six hundred and twenty-seven and one-half pounds of prepared opium, then and there of the value of $7,530.00, was fraudulently and with the knowledge and consent of said James Carroll, who was then master of said vessel, brought into the United States in and on board of said steamship Idaho from said port of Victoria, in the province of British Columbia, said opium being of foreign growth and manufacture, subject to duties upon being imported into the United States, and the duty thereon not having been paid or secured to the United States.

213

X.

That no part of either of said lots of merchandise, to wit, the 3,011.12 pounds of prepared opium carried in said vessel to Kassan bay, in Alaska, and said 627½ pounds of prepared opium carried in said vessel to Port Townsend, in Washington Territory, on said voyage was included in the manifest of said vessel for said voyage.

XI.

That said James Carroll, master of said steamship Idaho, knowingly and intentionally transported said three thousand eleven and one-half pounds of prepared opium in said vessel from Victoria aforesaid, and caused the same to be there unladen and discharged from said vessel, and failed to enter the same in the manifest of said vessel for said voyage, and knowingly and intentionally brought said six hundred and twenty-seven and one-half pounds of prepared opium in said vessel from Victoria aforesaid to Port Townsend aforesaid, and failed to enter the same in said manifest for said voyage, with the intent on his part then and there and thereby to defraud the United States.

XII.

That the place where said three thousand and eleven and one-half pounds of prepared opium *was* unladen as aforesaid, to wit, Kassan bay, at the time of the unlading of said merchandise from said vessel was not a port of entry or port of delivery of the United States and not a proper place for the discharge of merchandise brought from a foreign country.

XIII.

That for the causes aforesaid the said James Carroll, master of said steamship Idaho, by force of sections 2806, 2807, 2808, and 2809 of the Revised Statutes of the United States, has incurred a penalty and become indebted to the United States in the sum of one hundred and eight thousand four hundred and fourteen dollars, and also incurred a further penalty and become indebted to the United States in the further sum of twenty-two thousand five hundred and ninety dollars, and also by force of section 2867 of the Revised Statutes of the United States he, the said James Carroll, master, and the mate of said vessel have each respectively incurred a further penalty and become indebted to the United States
214 in the sum of one thousand dollars, and by force of section 3088 of the Revised Statutes of the United States said steamship Idaho became and is subject to a lien for the several amounts of said penalties, and also by force of section- 2871, 2872, 2873, and 2874 of the Revised Statutes of the United States the said steamship Idaho, her engines, boilers, tackle, apparel, and furniture, have become and the same are forfeited to the United States.

XIV.

That for the causes above mentioned the said steamship Idaho, on the 29th day of January, 1886, at the port of Port Townsend, in Jefferson county, Washington Territory, in the third judicial district of Washington Territory and within the collection district of Puget sound, and on waters navigable from the sea by vessels of ten or more tons burden, and within the admiralty and maritime jurisdiction of the United States and within the jurisdiction of this court, was seized and taken into custody by H. F. Beecher, who was then and there the duly qualified, appointed, and acting collector of customs for the district of Puget sound, and was held in custody of said collector of customs within the collection district aforesaid and within the third judicial district of Washington Territory and within the jurisdiction of this court at the time the libel herein was filed and until the same was released by an order of the court herein.

XV.

That on the 30th day *on* January, 1886, said James Carroll, master of said steamship Idaho, claimed said vessel and intervened for the Pacific Coast Steamship Company, the owner of said vessel, as claimant and filed a stipulation herein, with R. W. Delion and P. B. Cornwall, as sureties, in the sum of two hundred and fifty dollars, conditioned that the said claimant shall pay all costs and expenses which shall be awarded against him by this court or, on an appeal, by the appellate court.

XVI.

That said steamship Idaho has been, on the application of said claimant and under the direction of this court, duly appraised according to law in the sum of thirty thousand dollars, and on the 30th day of January, 1886, the said James Carroll, claimant, with
R. W. De Lion, P. B. Cornwall, and Thomas T. Minor, as
215 sureties, executed a bond to the United States for the payment of a sum equal to said sum of thirty thousand dollars for the release of said vessel, and thereupon, on application of said claimant, said vessel was by order of the court duly released from custody and delivered to said claimant.

Wherefore, by virtue of the law and by reason of the premises, it is considered, adjudged, and decreed by the court that the said steamship Idaho, her engines, boilers, tackle, apparel, and furniture, be, and the same is hereby, for the causes alleged in the libel herein, condemned and forfeited to the United States, and that the claimant herein do pay into the registry of the court, within twenty days from this date, the value of said vessel, to wit, the sum of thirty thousand dollars, together with the amount of the libelant's costs and expenses herein, to be taxed, and that if default be made in such judgment judgment shall be entered herein against the stipulators.

Enter.

GREEN, *J.*

Journal M, p. 47, December 14, '86.

UNITED STATES
vs.
THE STEAMSHIP "IDAHO," HER ENGINES, Boilers, Tackle, Apparel, and Furniture. } Order Extending Time for Appeal.

On this 14th day of December, 1886, in pursuance of an agreement of the parties herein, it is ordered that the time for taking an appeal by the claimant be extended twenty days from this date.

216 Journal M, p. 100, Dec. 31st, '86.

UNITED STATES
vs.
STEAMSHIP IDAHO. } Order.

Ordered by the court that the *court that the* claimant and respondent herein be, and are hereby, allowed until the first Monday of February next in which to perfect their appeal to the supreme court, and the amount of their appeal bond is here and now fixed at $2,500.

Journal M, p. 125, Feb. 7th, 1887.

UNITED STATES OF AMERICA
vs.
STEAMSHIP IDAHO. } Order.

Ordered by the court that the appellant herein be allowed until the first day of next term within which to perfect his appeal to the supreme court.

Journal M, p. 518, May 31st, 1887.

UNITED STATES
vs.
STMR. IDAHO. } Order.

On motion of E. P. Ferry, Esq., attorney for appellant, it is ordered by the court that the appellant herein be allowed until Wednesday morning, June 1st, 1887, within which to perfect his appeal to the supreme court.

217 Journal M, p. 531, June 1st, 1887.

UNITED STATES OF AMERICA, Libellant,
vs.
THE STEAMSHIP "IDAHO," HER ENGINES, BOILERS, Tackle, Apparel, and Furniture, Respondent; James Carroll, Claimant. } Stipulation.

Whereas an appeal has been taken from the above-entitled court to the supreme court of Washington Territory in the above-entitled

action by the said claimant and the said appellant has been ordered to give security in the sum of twenty-five thousand dollars for the payment of all damages and cost on the appeal in said supreme court of Washington Territory and in the Supreme Court: Now, therefore, the stipulators undersigned hereby stipulate in the said sum of twenty-five hundred dollars to pay all costs and damages on the appeal in said supreme court of Washington territory and the Supreme Court, in case such appeal shall intervene.

THOMAS T. MINOR.
BAILEY GATZERT.

Taken and acknowledged before me this 1st day of June, A. D. 1887.

JOSEPH F. McNAUGHT,
Notary Public.

218 Journal M, p. 525, June 1st, '87.

UNITED STATES *vs.* STEAMSHIP IDAHO. } Time Extended.

And now, on this June 1st, 1887, at nine o'clock a. m., comes the respondent and claimant, by James McNaught, his attorney, and makes application and is granted until 1.30 p. m. this day in which to perfect his appeal herein.

Journal M, p. 529, June 1st, '87.

UNITED STATES OF AMERICA, Libellant, *vs.* THE STEAMSHIP "IDAHO," HER ENGINES, BOILERS, Tackle, Apparel, and Furniture, Respondent; James Carroll, Claimant. } Notice of Appeal.

This cause coming on to be heard on the application of the claimant and respondent to perfect the appeal in the above-entitled cause, and it appearing to the court that James McNaught, one of the proctors for said claimant and respondent and the said steamship "Idaho," did, in open court, at and within the time allowed for taking and perfecting said appeal, give notice for and on behalf of said steamship "Idaho" and said respondent and claimant of an appeal to the next term of the supreme court of Washington Territory from the findings, judgment, and decree made in the above-entitled cause on the 9th day of December, A. D. 1886, and entered in the journal of said court on pages 40, 41, 42, 43, and 44; and it further appearing to the said court that the said claimant and respondent have taken all the steps within the time allowed by the said court necessary to perfect the said appeal:

Now, therefore, at and within the time allowed for perfect-
219 ing said appeal, it is considered, adjudged, and decreed by the court that the said appeal be, and is hereby, allowed. The stipulation filed herein this day by Thomas T. Minor and

Bailey Gatzert in the sum of $2,500.00 to pay all costs and damages on this appeal in said supreme court as additional to the stipulation filed herein January 30, '86, is approved as such additional security and not as in lieu thereof and not in any manner to deminish or release the said stipulation of January 30th, 1886, or the liability of the parties thereto.

TERRITORY OF WASHINGTON, } ss:
Third Judicial District, }

I, W. E. Ledgerwood, clerk of the district court, third judicial district of Washington Territory, holding terms at Seattle, King county, for the counties of King and Kitsap, do hereby certify that the foregoing is all the evidence and exhibits in their original forms and a full, true, and correct transcript of so much of the record in the above-entitled cause as I am by statute required on appeal to transmit to the supreme court.

In testimony whereof I have hereunto set my hand and the seal of said district court this 12th day of December, 1887.

[Seal 3rd Jud. Dist. Court.]

W. E. LEDGERWOOD, *Clerk.*

220 In the Supreme Court of the Territory of Washington.

THE UNITED STATES OF AMERICA, Libelant and Appellee,
vs.
THE STEAMSHIP IDAHO, HER ENGINES, Boilers, Tackle, Apparel, and Furniture, Respondent and Appellant; The Pacific Coast Steamship Company, Claimant and Appellant.

Filed December 20, '87.
R. G. O'Brien, Clerk.

Comes now said libelant and appellee, The United States of America, by W. H. White, Esq., United States attorney for Washington Territory and advocate for said libelant and appellee, and, appearing herein specially for the purpose of this motion only, but for no other purpose whatsoever, moves the court that the appeal herein be dismissed because—

1st. Said appeal was not taken in the manner provided by law.

2nd. Said appeal was not taken in the manner provided by the rules of practice in admiralty in the district court for the third judicial district of Washington Territory.

3rd. That no notice of appeal in form as provided by said rules of practice in admiralty in said district court was ever given or made herein.

4th. That no notice of appeal herein in writing was ever served on said libellant and appellee or its proctors, and that no notice of appeal was ever made herein orally in open court or at all.

And that no notice of appeal herein in any form whatever was ever entered upon the minutes of said district court.

And that no notice of appeal in any form whatever was ever given or made or served or entered herein.

5th. That neither said respondent nor said claimant ever gave or made or caused to be made or given or served or caused to be served any notice that said party or that either of said parties
221 "appealed in the cause."

6th. That the appeal herein was attempted to be made and taken from the findings and judgment and decree made in this cause on the ninth day of December, A. D. 1886, and said attempted appeal did not purport to appeal the cause.

7th. That no statement of the facts in this cause has ever been certified, as provided in the act of the Legislative Assembly of the Territory of Washington entitled "An act in relation to the removal of causes to the supreme court," approved November 23rd, 1883.

8th. That no notice of an application to the district court to sign and certify such statement of facts was ever served upon the attorney and proctor for libelant.

9th. That said findings, judgment, and decree made in this cause on the ninth day of December, A. D. 1886, and from which the appeal herein was attempted to be taken and had was and is not a final decree, but that said decree is interlocutory in its nature.

10th. That no appeal has been taken or attempted to be taken from the final decree herein.

11th. That the record in this cause does not show that the final decree herein has ever been made, rendered, or entered.

12th. That the record shows that this cause is still pending, undetermined in the court below.

13th. That this court has not acquired jurisdiction of this cause.

W. H. WHITE,
United States Attorney for Washington Ter. and Proctor for Libellant and Appellant, Appearing Herein Specially for the Purpose of this Motion Only.

222 TERRITORY OF WASHINGTON, } ss:
County of King, }

I, W. H. White, on my oath do say that I am the W. H. White named in and whose name is subscribed to the within motion; that I served a copy of said motion on Joseph F. McNaught, on- of the advocates for the appellant in the within-entitled action and an attorney-at-law and a member of the firm of McNaught, Ferry, McNaught & Mitchell, original proctors for claimant in said action, by delivering to said Joseph McNaught, in the city of Seattle, King county, Washington Territory, on the 19th day of December, 1887, at the hour of 9½ o'clock a. m., a true, full, and correct copy of the within motion.

W. H. WHITE.

Subscribed and sworn before me this 19th day of December, A. D. 1887, and in testimony whereof I have hereunto set my hand and official seal.

[SEAL.]

ALBERT M. SNYDER,
Notary Public in and for King Co, Wash. Ter.

223 In the Supreme Court of the State of Washington.

THE STEAMSHIP IDAHO, HER TACKLE, ETC., Respondent; THE PACIFIC COAST STEAMSHIP COMPANY, Claimant and Appellant,
—
THE UNITED STATES OF AMERICA, Libelant and Appellee.

To the honorable the judges of the supreme court of Washington:

Your petitioner, the Pacific Coast Steamship Company, claimant and appellant in the above-entitled cause, respectfully represents unto your honors that said cause is one of admiralty and maritime jurisdiction, as will fully appear from the record thereof in this court, and is therefore cognizable only in the circuit court of the United States for the district of Washington. Your petitioner therefore prays that said cause may be transferred to said circuit court for hearing and determination.

THE PACIFIC STEAMSHIP COMPANY,
By J. C. HAINES, *Its Attorney.*

STATE OF WASHINGTON, } ss:
County of Thurston, }

J. C. Haines, being duly sworn, deposes and says that he is the attorney for the petitioner in the foregoing entitled petition, and has heard said petition read, knows the contents thereof, and believes the same to be true.

J. C. HAINES.

Subscribed and sworn to before me this 13th day of January, 1890.

[SEAL.] SOL. SMITH,
Clerk of the Supreme Court.

224 In the Supreme Court of the State of Washington.

Be it remembered that at a regular session of the supreme court of the State of Washington, begun and holden at Olympia on the first Monday of January, A. D. 1890, the same being the 6th day of said month, there being present Honorable Thomas J. Anders, chief justice, and Honorables Elmon Scott, Theodore L. Stiles, and John P. Hoyt, associate judges, and Sol. Smith, clerk, among other the following was had and done, to wit:

On Monday, January 13th, 1890, the following-entitled cause coming on to be heard, the following order was made:

THE STEAMSHIP IDAHO, HER TACKLE, ETC., Respondent; The Pacific Coast Steamship Co., Claimant & Appellant,
—.
THE UNITED STATES OF AMERICA, Libellant and Appellee. } No. 551.

This cause coming on for hearing on this 13th day of January, 1890, upon the petition of the Pacific Coast Steamship Company

for the transfer of said cause to the circuit court of the United States for the district of Washington, and it appearing to the court that said cause is one of admiralty and maritime jurisdiction here pending on appeal from the district court of the third judicial district of Washington Territory, and therefore cognizable only in said circuit court, it is ordered that the said petition be, and the same is hereby, granted, and the clerk of this court is ordered to certify, under seal of this court, and transmit without delay to the clerk of the circuit court all papers in said cause on file in this court, together with a full transcript of all proceedings had in this court therein.

I, Sol. Smith, clerk of the supreme court of the State of Washington, do hereby certify that the foregoing is a true copy of the final order and the whole thereof made in the said cause as the same now remains of record in my office and is a
225 full transcript of all the proceedings had in this court therein, and that the accompanying papers are all and the only papers filed in said cause in this court, as the same appears by the filed thereof.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Olympia, this 6 day of June, A. D. 1890.

SOL. SMITH,
Clerk of Supreme Court of the State of Washington.

226 In the Supreme Court of Washington Territory.

UNITED STATES OF AMERICA, Libellant and Appellee,
v.
THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, APPAREL, and Furniture, Respondent and Appellant; James Carroll, Claimant and Appellant.

Now comes said respondent and appellant and claimant and appellant, by McNaught, Ferry, McNaught & Dudley, their proctors, and move the court for leave to take the depositions of William I. Webster, of Juneau, Alaska; Ed. Webster, of said Juneau; Charles Wells, of said Juneau; N. A. Fuller, of said Juneau, and E. P. Lynch, of Fort Wrangel, Alaska, upon an oral examination before L. L. Williams, commissioner in and for the district of Alaska, appointed under and by virtue of an act of Congress approved May 17th, 1884, entitled "An act providing a civil government for Alaska;" said depositions to be taken before said commissioner at Juneau, in the Territory of Alaska; said depositions to be used as evidence on behalf of said claimant and appellant and respondent and appellant on the hearing of the appeal in the above-entitled cause; and the said appellant also moves the court to diminish the length of notice to be required for the taking of such depositions to fifteen days, or such other period as the court may deem proper. This motion is based upon the affidavit of James Carroll, on file herein, and the files and records in the above-entitled cause.

McNAUGHT, FERRY, McNAUGHT & DUDLEY,
Proctors for Respondent and Appellant and Claimant and Appellant.

To William H. White, United States attorney for Washington Territory, and to the United States of America:

You and each of you are hereby notified that on Monday, the 25th day of July, A. D. 1887, at the hour of 11 o'clock a. m., or as soon thereafter as counsel can be heard, we will call up the foregoing motion for hearing before the supreme court of Washington Territory at Olympia, Washington Territory.

227 McNAUGHT, FERRY, McNAUGHT & DUDLEY,
Proctors for Appellants.

Received copy of the above motion and notice this 23rd day of July, A. D. 1887.

W. H. WHITE,
Proctor for Appellee.

TERRITORY OF WASHINGTON, } ss:
County of King, }

F. M. Dudley, being duly sworn, on oath says that he is one of the proctors for appellants in the above-entitled action; that he served the within motion and notice on said appellee by delivering the same to Charles F. Munday, deputy United States attorney for Washington Territory, in the city of Seattle, this 23rd day of July, A. D. 1887.

F. M. DUDLEY.

Filed July 25th, 1887.

R. G. O'BRIEN, *Clerk.*

228 In the Supreme Court of the Territory of Washington.

UNITED STATES OF AMERICA, Libellant and Appellee,
v.
THE STEAMSHIP IDAHO, HER ENGINES, BOILER, TACKLE, Apparel, and Furniture; James Carroll, Claimant and Appellant.

TERRITORY OF WASHINGTON, } ss:
County of King, }

James Carroll, being first duly sworn, on oath deposes and says that he is the claimant and appellant above named; that at the time of the seizure of the above-named respondent and appellant he was the master thereof; that the following persons, to wit, W. I. Webster, Ed. Webster, Charles Wells, and N. A. Fuller, residents of Juneau, Alaska Territory, will testify that certain barrels alleged to have been taken on board of the said Idaho at Juneau, Alaska Territory, on her return trip from Sitka to Port Townsend on the — day of December, A. D. 1885, and by said respondent landed, as claimed by the libelant herein, on said return voyage on the — day of December, 1885, among which, as contended by the said libellant and appellee, were, and so found by the hon. district court upon the trial of said cause, *were* the fourteen barrels of opium seized by libellant at Kasson bay on the — day of ——, 1887, and for the

alleged smuggling of which said respondent has been condemned in said district court, were not, as found by said district court, landed from said respondent at said Juneau on her upward trip on said voyage on the — day of December, A. D. 1887, or at any other time, but were on the dock of said Juneau at the time of the arrival of said respondent at Juneau on her said upward trip and for a long time prior thereto; that at the time of the trial of said cause affiant nor respondent knew of the existence of said evidence, nor of the materiality of such testimony, inasmuch as the witnesses on behalf of the said libellant testified that said barrels were at said Juneau prior to the arrival of said respondent at said place on the — day of December, A. D. 1887, and said affiant and respondent
229 deemed that said libellant would be bound by and said district court would accept as true said uncontradicted evidence on behalf of said libellant; that John Wilson, Benjamin Craig, William Guest, and Captain De Wallace, seafaring men, and at the time of said alleged landing and also of said reshipping of said barrels at said Juneau, will also testify that said barrels were not landed, as alleged by libellant and found by said district court, at said Juneau, nor at all; that at the time of the trial of said cause said parties were scattered and affiant and appellant could not obtain the evidence of all of said parties. Said seamen will further testify, particularly said Benjamin Craig and Willian Guest will further testify that certain barrels taken on board of said steamship at Victoria in the evening of the — day of December, 1887, claimed *and* by said libellant and found by said district court to have been hauled on board of said steamship from the China house of Tai Yuen, in Victoria, and claimed by libellant and found by the court on said trial to be the barrels subsequently seized as aforesaid at Kassan bay, in truth and in fact contained ship's stores, as claimed by respondent and affiant; that said respondent was in the habit of obtaining ship's stores from said place; that affiant was not aware until the time of said trial that said evidence was material, and that after learning that such was the case it was impossible to procure the attendance of said witnesses; that affiant was not at said time fully informed as to the whereabouts of said witnesses. Affiant further avers that said first-named witnesses, residents of Juneau, and also one E. P. Lynch, of Fort Wrangel, Alaska, will testify that they are acquainted with Charles R. Langtry, whom said district court found to be a fictitious person, evolved for purposes of fraud; that such person does exist and was at the times alleged by witnesses on behalf of respondent at the places by them alleged, and that said Langtry still lives in said Alaska. Affiant further avers that he was not at the time of said trial aware of the existence of this testimony.

JAS. CARROLL.

Subscribed and sworn to before me this 23rd day of July, A. D. 1887.

F. M. DUDLEY,
Notary Public in and for said County and Territory.

229½ In the Supreme Court of Washington Territory.

UNITED STATES OF AMERICA, Libellant and Appellee,
v.
THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, AND Apparel and Furniture, Respondent and Appellant; James Carroll, Claimant and Appellant.

And now comes said respondent and appellant and claimant and appellant, by McNaught, Ferry, McNaught & Dudley, their proctors, and moves the court for leave to take the depositions of John Wilson, Benjamin Craig, William Quest, and Captain D. Wallace, all of said parties being seafaring men, upon an oral examination before A. C. Bowman, a notary public in and for the Territory of Washington, said depositions to be used as evidence on behalf of said claimant and appellant and respondent and appellant on the hearing of the appeal in the above-entitled cause, said depositions to be taken before A. C. Bowman, at his office, in the city of Seattle, King county, Washington Territory, upon due notice to be given to the parties hereto. This motion is based on the affidavit of James Carroll, on file herein, and on the files and records in the above-entitled cause.

McNAUGHT, FERRY, McNAUGHT & DUDLEY,
Proctors for Respondent and Appellant and Claimant and Appellant.

To William H. White, United States attorney for Washington Territory, and to the United States of America:

You and each of you are hereby notified that on Monday, the 25th day of July, A. D. 1887, at the hour of 11 o'clock a. m., or as soon thereafter as counsel can be heard, we will call up the foregoing motion for hearing before the supreme court of Washington Territory, at Olympia, Washington Territory.

McNAUGHT, FERRY, McNAUGHT & DUDLEY,
Proctors for Appellants.

Received true copy of the above motion and notice this 23rd day of July, A. D. 1887.

W. H. WHITE,
Proctor for Appellee.
(M.)

(Endorsed:) United States *vs.* Steamship Idaho. Motion for leave to take depositions. Filed July 25th, 1887. R. G. O'Brien, clerk.

230 In the Supreme Court of Washington Territory.

UNITED STATES OF AMERICA, Libellant and Appellee,
vs.
THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, Apparel, and Furniture, Respondent and Appellant; JAMES Carroll, Claimant and Appellant.

Filed July 25, 1887. R. G. O'Brien, clerk.

Upon reading and filing the affidavit and motion of the claimant and respondent in the above entitled cause, it is ordered that the said claimant and respondent have leave to take the depositions of John Wilson, Benjamin Craig, William Guest, and Captain D. Wallace, upon an oral examination before A. C. Bowman, a notary public in and for the Territory of Washington, at the office of said A. C. Bowman, in the city of Seattle, King county, Washington Territory, upon due notice to be given to the parties hereto; said depositions to be used as evidence on behalf of said claimant and appellant and respondent and appellant on the hearing of the appeal in the above-entitled cause.

231 In the Supreme Court of Washington Territory.

UNITED STATES OF AMERICA, Libellant and Appellee,
v.
THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, Apparel, and Furniture, Respondent and Appellant; JAMES Carroll, Claimant and Appellant.

Upon reading and filing the affidavit and motion of the claimant and respondent in the above-entitled cause, it is ordered that the said claimant and respondent have leave to take the depositions of William I. Webster, Charles Wells, and N. A. Fuller, all of Juneau, Alaska, and E. P. Lynch, of Port Wrangel, Alaska, upon an oral examination before L. L. Williams, commissioner in and for the district of Alaska, appointed under and by virtue of the act of Congress entitled "An act *to* providing a civil government for Alaska," approved May 17th, 1884, said depositions to be taken before said commissioner at Juneau, in the Territory of Alaska, said depositions to be used as evidence on behalf of said claimant and respondent on the hearing of the appeal in the above-entitled cause.

It is further ordered that the notification to the adverse party to be present at the taking of said depositions and put interrogatories, if said adverse party shall think fit, is her-by diminished to 30 days.

232 In the Supreme Court of Washington Territory.

UNITED STATES OF AMERICA, Libellant and Appellee,
vs.
THE STEAMSHIP "IDAHO," HER ENGINES, BOILERS, TACKLE, APPAREL, AND FURNITURE, Respondent and Appellant.

On this 29th day of November, in the year of our Lord one thousand eight hundred and eighty-seven, before me, L. L. Williams, a United States commissioner in and for the district of Alaska, at Juneau city, duly qualified and acting under and by virtue of an act of Congress entitled "An act providing a civil government for Alaska," approved May 17th, 1884, personally appeared at my office, in Juneau city, in said district and Territory of Alaska, David Wallace, William Quist, Benjamin Craig, E. P. Lynch, N. A. Fuller, Charles Wells, and Edward Webster, witnesses on the part of the respondant and appellant in a certain civil cause of admiralty and maritime jurisdiction now pending and undetermined in the supreme court of Washington Territory, wherein The United States of America is libellant and appellee against The Steamship "Idaho," her engines, boilers, tackle, apparel, and furniture, respondent and appellant.

And the said DAVID WALLACE, having been by me first cautioned and sworn to testify the whole truth and being interrogated before me by U. M. Rasin, proctor for said respondent and appellant, did thereupon, in answer to the interrogatories of said U. M. Rasin hereinafter stated, depose and say as follows:

Question. State your name, age, and occupation.

Answer. My name is David Wallace; am thirty-four years of age and a master mariner by occupation.

Q. Do you know the steamship "Idaho?"

A. Yes, sir.

Q. Do you know Captain Carroll, of the steamship "Idaho?"

A. Yes, sir.

Q. Did you know them in December, 1885?

233 A. Yes, sir.

Q. What was your occupation in December, 1885?

A. I was first officer of the steamship "Idaho."

Q. What trade was she engaged in during that month?

A. She was engaged in carrying freight and passengers and mail from Portland, Oregon, to Alaskan ports.

Q. Were you mate of the Idaho on her arrival at Juneau on her down trip that trip?

A. I was.

Q. Do you recollect taking on any freight at Juneau city that trip?

A. I do.

Q. State, as near as you can, what freight you took on at Juneau.

A. We took on a little for Wrangel—not more than one or two packages—and some barrels and bales of skins for Kassan bay,

a small lot for Victoria, a small lot for Port Townsend, and the balance of it was for Portland, Oregon.

Q. About how many bales were there, Mr. Wallace?

A. O, I can't tell exactly; somewhere in the neighborhood of a dozen.

Q. How many barrels?

A. About fifteen, as near as I can recollect.

Q. Did you know who they were consigned to?

A. I did not. That was not a part of my business.

Q. Where did you take these barrels from?

A. From the outside of the warehouse at Juneau.

Q. Where were the bales?

A. Inside the warehouse.

Q. Did you ever see these barrels before?

A. Yes, sir.

Q. Where?

A. They were in the warehouse when we arrived at Juneau on our up trip and I ordered them out of the warehouse to make room for the freight that we landed there.

Q. Where did you put them at that time?

A. Just where we found them when we came back from Sitka.

Q. Did you take them on board then?

A. Yes, sir.

Q. Now, what became of the barrels and bales?

A. We landed them on the wharf at the Kassan Bay fishery, at Kassan bay.

234 Q. What was the appearance of these barrels?

A. As near as I can recollect, they were old, second-hand barrels of different sizes and looked like oil barrels.

Q. How do you know they were the same barrels and bales that you took on at Juneau?

A. Well, I generally know what freight I put on the ship and where I put it. That is my part of the business—and what its destination is. I have to know in order to know how to store and discharge the freight. I took these barrels and bales off the ship at Kassan bay from the same place where I stored them on the ship at Juneau.

Q. Now, do you recollect taking on any barrels at Victoria?

A. Yes, sir; we took on some salt provisions.

Q. In what shape did they come aboard?

A. In barrels and half barrels and kegs, according to what it was.

Q. At what time did you take these salt provisions on?

A. Some time in the evening. It's so long ago that I can't tell the exact hour.

Q. Can you tell how many barrels you took on there?

A. There were two or three dray-loads; I can't tell exactly. That is the steward's part of it.

Q. Where were these barrels stowed?

A. When they came on board we were pretty full of freight and we stowed them wherever we could find a place for them.

Q. Did you land some freight at Juneau on the way north?
A. Landed a great deal. The warehouse was full.
Q. Did you land any at Sitka?
A. Yes, sir.
Q. What was the condition of your ship when you left for the south?
A. We had a clean-swept hold except a few packages of iron which we had forgot to land at Juneau coming north and which we took back.
Q. Now, Mr. Wallace, you are sure these barrels you spoke of were not in your ship when you left Sitka?
A. I am.
Q. Are you sure that they were in the warehouse at Juneau when you arrived there?
A. Yes, sir.
Q. Are you sure you did not land them there?
A. Yes, sir.

DAVID WALLACE.

235 Taken, subscribed, and sworn to before me this 29th day of November, A. D. 1887.

[SEAL.] LOUIS L. WILLIAMS,
U. S. Commissioner within and for the District of Alaska, at Juneau.

And the said WILLIAM QUEST, having been by me first cautioned and sworn to testify to the whole truth and being interrogated before me by said U. M. RASIN, proctor for said respondent and appellant, did thereupon, in answer to the interrogatories of said U. M. Rason, hereinafter stated, depose and say as follows:

Question. State your age, name, and occupation.
Answer. My name is William Quest. I am forty-five years of age, and am steward of the "Ancon."
Q. What was your occupation in December, 1885?
A. I was steward on the steamship Idaho.
Q. Did you go north on her trip to Alaska in December, 1885?
A. I did.
Q. Did the ship land at Victoria that trip?
A. She did.
Q. Did you buy any provisions for her on that trip at Victoria?
A. I did.
Q. State what you bought as near as you can recollect.
A. We bought rice, salt provisions, fresh meat, and other provisions, such as I usually buy there.
Q. About how much salt provisions did you buy?
A. Well, I usually buy about three thousand pounds there, and I bought about the same quantity this time.
Q. How are your salt provisions packed?
A. Generally in barrels and half barrels.
Q. How many barrels of salt provisions do you usually buy?

A. About fifteen; sometimes more; it is generally about that number.

Q. And you bought this time about the usual quantity, did you?

A. Yes, sir.

Q. Do you know whether these provisions were brought aboard?

A. Yes; I presume so, for we used them on the ship.

236 Q. From whom did you buy your salt provisions and beef?

A. From Van Valkenberg & Co.

Q. Where is their place of business?

A. On Government street, in Victoria.

Q. From whom did you buy your rice?

A. From Ty Yoon, in Victoria.

Q. Where is their house situated?

A. On Government street.

Q. That is the same street that the butcher shop is on?

A. Yes, sir.

Q. Which is nearest the dock?

A. The butcher shop.

WILLIAM QUEST.

Taken, subscribed, and sworn to before me this 29th day of November, A. D. 1887.

LOUIS L. WILLIAMS,

[SEAL.] *United States Commissioner within and for the District of Alaska, at Juneau.*

And the said BENJAMIN CRAIG, having been by me first cautioned and sworn to testify the whole truth and being interrogated before me by said U. M. RASIN, proctor for said respondent and appellant, did thereupon, in answer to the interrogatories of said U. M. Rasin, hereinafter stated, depose and say as follows:

Question. State your name, age, and occupation.

Answer. My name is Benjamin Craig. I am fifty-three years old, and am second officer of the steamer "Ancon."

Q. What was your business in December, 1885?

A. I was second officer of the steamer "Idaho."

Q. Did you go north on her on her December trip, 1885?

A. Yes, sir.

Q. Did she land at Victoria that trip?

A. Yes, sir.

Q. Did you take on any freight there?

A. Yes, sir. Quite a little lumber and other freight.

Q. Did you take on any ship's provisions there—any salt provisions?

A. Yes, sir; we always do.

237 Q. About what time do you generally receive these provisions on board?

A. Generally in the evening the last thing after we finish taking on freight.

Q. Who received the salt provisions on board?
A. I did.
Q. State, if you know, how many barrels of salt provisions you took on board.
A. Well, there were a couple of dray-loads; some fourteen or fifteen barrels.
Q. How did these provisions come to the ship?
A. On drays.
Q. Were there any other provisions come at the same time?
A. I think there were some sacks of rice.
Q. How did you take them aboard?
A. We hoisted them aboard.
Q. How did you know these were salt provisions, Mr. Craig?
A. I did not see they were salt provisions, only some of the barrels were leaking when they came aboard and I had the carpenter cooper them, and the leakage was brine, and, besides, they were marked "ship's stores."
Q. Where did you store these barrels that came aboard?
A. Wherever I could find room for them on the ship. We were pretty well loaded.
Q. Do you know what become of these barrels of provisions?
A. Well, I guess they were eaten up on the ship.
Q. How do you know they were eaten on the ship?
A. Because the steward had the carpenter open some of them up and we eat the contents.

BENJAMIN CRAIG.

Taken, subscribed, and sworn to before me this 29th day of November, A. D. 1887.

LOUIS L. WILLIAMS,
United States Commissioner within and
[SEAL.] *for the District of Alaska, at Juneau.*

238 And the said E. P. LYNCH, having been by me first cautioned and sworn to testify the whole truth and being interrogated before me by the said U. M. RASIN, proctor for the respondent and appellant, did thereupon, in answer to the interrogatories of said U. M. Rason, hereinafter set forth, depose and say as follows:

Question. State your name, age, and occupation.
Answer. My name is E. P. Lynch; I am fifty-two years old, and the proprietor of the Kassan Bay cannery in Alaska.
Q. What was your business in December, 1885?
A. I was in the same business, running the fishery at Kassan bay.
Q. Were you there when the steamship Idaho landed there on her down trip in December, 1885?
A. Yes, sir.
Q. About what time in December?
A. Anywhere from the 20th to the 25th of December.
Q. Did she land any freight there?

A. Yes, sir; she landed fourteen barrels and ten bales.
Q. How do you know that to be the number?
A. Because they were delivered on my wharf to be redelivered and I took account of them.
Q. Do you own that wharf?
A. No, sir; Mrs. Baronowitch; but I had a lease of it.
Q. What did these barrels look like?
A. Well, they were old greasy barrels; looked like oil barrels.
Q. To whom were they consigned?
A. To a man named Langtry.
Q. What were they said to contain?
A. They were delivered to me for skins.
Q. Did you deliver them to him?
A. I delivered the bales to him.
Q. Why didn't you deliver the barrels?
A. Because the revenue cutter came along and took them away while I was absent.
Q. What became of the bales?
A. I delivered them to Mr. Langtry.
Q. When and where?
A. At my wharf at Kassan bay the last day of January, 1886.
Q. State the circumstances of your delivering these bales to him.

A. At that time a man came to Kasson bay in a small
239 schooner and said he was Mr. Langtry and asked for some skins which he had shipped to Kassan bay by the steamer Idaho, telling me that he had shipped fourteen barrels and ten bales of skins to be left in my care. I took him into my warehouse and showed him the bales. He asked where the barrels of skins were. I said to him, "The barrels of skins be damned. There were none left here, but that there was something else left here in barrels and if you want it you can go down to the custom-house in Port Townsend for it."

Q. Well, what did he say?
A. He tore around for awhile and wanted to get mad at me, but I finally told him the best thing he could do was to take his bales of skins, pay my bill, and leave the country; that if the authorities got hold of him they would send him to jail.
Q. Well, what next?
A. He took the bales, paid my storage bill, amounting to $7.50, and went away.
Q. Did you have any further conversation with him than you have detailed?
A. Yes; I have not detailed the conversation we had together. We talked about a great many things. I am only telling you what I can recollect about this matter. I recollect now that I asked him where he got this stuff what was in the barrels, but he would not tell me.
Q. Did he seem very angry?
A. Angry? *I* that is no name for it.
Q. Have you ever seen him since?

A. No, sir; I never have. He stayed at my place about two hours, and then went away.

Q. Have you any idea where he is now?

A. I have heard that he was in British Columbia.

Q. You were not present, you say, when the revenue cutter took the barrels away?

A. No, sir.

Q. Did you make any examination of them to see what they contained?

A. No, sir; there was no reason why I should. They looked like the general run of old barrels such as oil and salt skins are packed in.

Q. Did you take any receipt from him when you delivered the bales to him?

A. Yes, sir.

Q. Where is it?

A. Here it is. (Witness produces a paper-writing.)

240 Q. When was that receipt given to you?

A. At the time I delivered the bales of skins.

(Claimant here offers the receipt in evidence, and the same is received and filed and marked Exhibit I.)

E. P. LYNCH.

Taken, subscribed, and sworn to before me this 29th day of November, A. D. 1887.

LOUIS L. WILLIAMS,

[SEAL.] *U. S. Commissioner within and for the District of Alaska, at Juneau.*

"KASSAN BAY, *January 31st*, 1886.

Received from E. P. Lynch 10 bales of skins left here by steamer Idaho for Charles R. Langtry.

CHAS. R. LANGTRY.

Exhibit 'I.'"

And the said EDWARD WEBSTER, having been by me first cautioned and sworn to testify the whole truth and being interrogated before me by U. M. RASIN, proctor for said respondent and appellant, did thereupon, in answer to the interrogatories of said U. M. Rasin hereinafter stated, depose and say as follows:

Question. State your name, age, and occupation.

Answer. My name is Edward Webster; I am agent for the Northern Pacific Express Company at Juneau, and my age is twenty-eight years.

Q. Where did you reside in the month of December, 1885?

A. At Juneau, Alaska.

Q. What was your occupation at that time?

A. I was wharfinger on the Juneau wharf.

Q. How long had you been such wharfinger?

A. Yes, sir; she landed fourteen barrels and ten bales.

Q. How do you know that to be the number?

A. Because they were delivered on my wharf to be redelivered and I took account of them.

Q. Do you own that wharf?

A. No, sir; Mrs. Baronowitch; but I had a lease of it.

Q. What did these barrels look like?

A. Well, they were old greasy barrels; looked like oil barrels.

Q. To whom were they consigned?

A. To a man named Langtry.

Q. What were they said to contain?

A. They were delivered to me for skins.

Q. Did you deliver them to him?

A. I delivered the bales to him.

Q. Why didn't you deliver the barrels?

A. Because the revenue cutter came along and took them away while I was absent.

Q. What became of the bales?

A. I delivered them to Mr. Langtry.

Q. When and where?

A. At my wharf at Kassan bay the last day of January, 1886.

Q. State the circumstances of your delivering these bales to him.

A. At that time a man came to Kasson bay in a small
239 schooner and said he was Mr. Langtry and asked for some skins which he had shipped to Kassan bay by the steamer Idaho, telling me that he had shipped fourteen barrels and ten bales of skins to be left in my care. I took him into my warehouse and showed him the bales. He asked where the barrels of skins were. I said to him, "The barrels of skins be damned. There were none left here, but that there was something else left here in barrels and if you want it you can go down to the custom-house in Port Townsend for it."

Q. Well, what did he say?

A. He tore around for awhile and wanted to get mad at me, but I finally told him the best thing he could do was to take his bales of skins, pay my bill, and leave the country; that if the authorities got hold of him they would send him to jail.

Q. Well, what next?

A. He took the bales, paid my storage bill, amounting to $7.50, and went away.

Q. Did you have any further conversation with him than you have detailed?

A. Yes; I have not detailed the conversation we had together. We talked about a great many things. I am only telling you what I can recollect about this matter. I recollect now that I asked him where he got this stuff what was in the barrels, but he would not tell me.

Q. Did he seem very angry?

A. Angry? *I* that is no name for it.

Q. Have you ever seen him since?

A. No, sir; I never have. He stayed at my place about two hours, and then went away.

Q. Have you any idea where he is now?

A. I have heard that he was in British Columbia.

Q. You were not present, you say, when the revenue cutter took the barrels away?

A. No, sir.

Q. Did you make any examination of them to see what they contained?

A. No, sir; there was no reason why I should. They looked like the general run of old barrels such as oil and salt skins are packed in.

Q. Did you take any receipt from him when you delivered the bales to him?

A. Yes, sir.

Q. Where is it?

A. Here it is. (Witness produces a paper-writing.)

240 Q. When was that receipt given to you?

A. At the time I delivered the bales of skins.

(Claimant here offers the receipt in evidence, and the same is received and filed and marked Exhibit I.)

E. P. LYNCH.

Taken, subscribed, and sworn to before me this 29th day of November, A. D. 1887.

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CHAS. R. LANGTRY.

Exhibit 'I.'"

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Question. State your name, age, and occupation.

Answer. My name is Edward Webster; I am agent for the Northern Pacific Express Company at Juneau, and my age is twenty-eight years.

Q. Where did you reside in the month of December, 1885?

A. At Juneau, Alaska.

Q. What was your occupation at that time?

A. I was wharfinger on the Juneau wharf.

Q. How long had you been such wharfinger?

A. I think I commenced work as wharfinger about the first of August, 1884.

Q. Do you recollect the trip of the Idaho on the month of December, 1885?

A. Yes, sir.

241 Q. Dom you know about what time she arrived here on that trip?

A. Yes, sir.

Q. What time was it?

A. She arrived here on the 15th day of December, 1885.

Q. At the time of here arrival here or shortly before her arrival was there any freight stored in the warehouse on the dock?

A. Yes, sir.

Q. State, if you know, what that freight was.

A. There were a number of barrels of oil, how many I cannot just say, and fourteen barrels and ten bales of skins for shipment.

Q. Do you know what became of those barrels of skins?

A. Yes, sir.

Q. What?

A. When the ship arrived there the mate of the ship came on shore and rolled these barrels out of the warehouse onto the dock to make room for his freight.

Q. What became of the bales?

A. They were placed in one corner of the warehouse.

Q. How long had these bales and barrels been in your warehouse prior to the arrival of the "Idaho"?

A. They were brought there about three or four weeks before that time.

Q. Were any instructions left with them?

A. Yes, sir.

Q. What were they?

A. I was told they were to be kept until the arrival of the Idaho, when they were to be shipped below.

Q. Do you know what became of these barrels and bales?

A. Yes, sir.

Q. Well, what did?

A. When the Idaho returned fro- Sitka they were shipped by the owner himself on board of her.

Q. Are you sure these were the same barrels and bales that were in your warehouse and that we have been speaking of?

A. Yes, sir; I know they were.

Q. How were these barrels and bales brought to your warehouse?

A. On drays from the town, just as all town freight usually is.

Q. What was the appearance of these barrels, as near as

242 you can recollect?

A. Well, they were old second-hand barrels of different sizes, such as are commonly used in this country to ship oil in and to pack salt skins in.

EDWARD WEBSTER.

Taken, subscribed, and sworn to before me this 29th day of November, A. D. 1887.

[SEAL.] LOUIS L. WILLIAMS,
U. S. Commissioner within and for the District of Alaska, at Juneau.

And the said N. A. FULLER, having been by me first cautioned and sworn to testify the whole truth and being interrogated before me by the said U. M. RASIN, proctor for said respondent and appellant, did thereupon, in answer to the interrogatories of said U. M. Rasin hereinafter stated, depose and say as follows:

Question. State your name, age, and occupation.

Answer. My name is N. A. Fuller; I am thirty-eight years of age and am assistant superintendent of the Treadwell mine.

Q. Where do you reside?

A. On Douglass island, Alaska.

Q. How long have you lived in Alaska?

A. About ten years.

Q. How long have you lived in and about the neighborhood of Juneau?

A. Somewheres about five years.

Q. Have you, during that time, had a pretty general acquaintance with the people traveling in and around Juneau?

A. Yes, sir; somewhat.

Q. State whether, during that time, you have ever known or met a man by the name of Langtry.

A. I have; yes, sir.

Q. State, if you know, the business or occupation he was engaged in.

A. Well, I know him to have been in the whiskey and prospecting business.

Q. State if you know him to have been engaged in any other business than those you have mentioned.

243 A. I don't know whether he was or not.

Q. How long has it been since you last saw him?

A. Oh, I have seen him here at Juneau within the last three months.

Q. Did you know him well enough to talk to him?

A. Yes, sir; I knew him well—intimately.

Q. Do you know where he is now?

A. I understand he is in British Columbia.

N. A. FULLER.

Taken, subscribed, and sworn to before me this 29th day of November, A. D. 1887.

[SEAL.] LOUIS L. WILLIAMS,
U. S. Commissioner within and for the District of Alaska, at Juneau.

And the said CHARLES WELLS, having been by me first cautioned and sworn to testify the whole truth and being interrogated before

my by the said U. M. RASIN, proctor for the said respondent and appellant, did thereupon, in answer to the interrogatories of said U. M. Rasin hereinafter stated, depose and say as follows:

Question. State your name, age, and occupation.

Answer. My name is Charles Wells. I am forty years old, and I am a blacksmith by trade, but I have been prospecting in this country for some years.

Q. How long have you been here?

A. I have been here over tem years.

Q. Have you been blacksmithing all that time?

A. Oh, no; I have done a little of everything.

Q. What are you doing now?

A. Well, I am prospecting and speculating around.

Q. State whether or not, during the time you have lived in Alaska, you have ever known a man by the name of Langtry.

A. Yes, sir.

Q. Do you know his full name?

A. Well, no; we used to call him "Charlie."

Q. What business was he engaged in?

A. He used to bring some whiskey in here—used to trade in anything he could get. He did a little in skins, and used to run around from one place to another.

244 Q. Where did he make his headquarters?

A. Oh, every place. I don't know where his headquarters were. Sometimes he would come here, and then we wouldn't see him again for months.

Q. Do you know where he is now?

A. No; I do not; but he was here about six weeks ago.

CHAS. WELLS.

Taken, subscribed, and sworn to before me this 29th day of November, A. D. 1887.

[SEAL.] LOUIS L. WILLIAMS,
United States Commissioner within and for the District of Alaska, at Juneau.

245 In the Supreme Court of the Territory of Washington, Holding Terms at Olympia.

UNITED STATES OF AMERICA, Libellant and Appellee,
vs.
THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, APPAREL, AND FURNITURE, Respondent and Appellant.

Notice to Take Depositions *De Bene Esse.*

To the above-named libellant and appellee, W. H. White, U. S. district attorney for Washington Territory, proctor for said libellant and appellee:

Please take notice that the testimony of J. Webster, Ed. Webster, Charles Wells, N. A. Fuller, John Wilson, Benjamin Craig, Captain

D. Wallace, and E. P. Lynch will be taken by deposition *de bene esse* before L. L. Williams, United States commissioner for Alaska Territory, at his office, in Juneau city, said Territory, on the 29th day of November, A. D. 1887, at the hour of 9 o'clock a. m. of that day; that the taking of said testimony will continue from day to day and over Sunday until completed; that said testimony will be used as evidence on the trial of said cause in the said supreme court; that the reason for said depositions are that a number of said witnesses are residents of the said Territory of Alaska and reside more than one hundred miles from the place of trial of said cause, and that the remainder of said witnesses are seafaring men and do not expect to be present at or within one hundred miles of the place of the trial of said cause at the time of the trial thereof.

J. C. HAINES,
J. F. McNAUGHT,
J. H. McGRAW,
Proctors for Respondent and Appellant.

246 TERRITORY OF WASHINGTON, }
County of King. }

R. M. Hopkins, being first duly sworn, on oath deposes and says that he is a citizen of the United States, over the age of twenty-one years, and that he is not in any manner interested in the above-entitled action and is competent to be a witness therein; that at Seattle, in King county, Washington Territory, on the 24th day of October, 1887, he served the foregoing notice to take depositions upon W. H. White, Esq., United States district attorney for Washington Territory, by then and there delivering to the said W. H. White personally a true copy of said notice.

R. M. HOPKINS.

Subscribed and sworn to before me this 25th day of October, 1887.

A. E. HANFORD,
Notary Public.

On the back of the foregoing is endorsed the words and figures following:

In the supreme court of the Territory of Washington, holding terms at Olympia. United States of America, libellant and appellee, *vs.* The Steamship Idaho, her engines, boilers, tackle, apparel, and furniture, respondent and appellant. Notice to take depositions *de bene esse*. J. C. Haines, J. F. McNaught, J. H. McGraw, proctors for respondent and appellant.

247 UNITED STATES OF AMERICA, }
Territory of Alaska, District of Alaska, City of Juneau, } *ss:*

I, L. L. Williams, do hereby certify that the reason for taking the foregoing depositions *are* that the testimony of the witnesses aforesaid is necessary in the cause in the caption of the said depositions

named; that the witnesses, to wit, David Wallace, Benjamin Craig, and William Quist, are residents of the city of San Francisco, States of California, and live a greater distance from the place of trial of the above-entitled cause than one hundred miles; that the witnesses, to wit, N. A. Fuller, Charles Wells, Edward Webster, and E. P. Lynch, are residents of the Territory of Alaska aforesaid and live at a greater distance from the place of trial of the above-entitled cause that one hundred miles.

And I further certify that the foregoing depositions and each of them were taken in pursuance to the notice hereunto attached and marked Exhibit "A" and made a part hereof; that said notice at the time and place of taking said depositions was duly served on W. H. White, United States district attorney for Washington Territory and proctor for the libellant and appellee in said cause, on the 24th day of October, 1887, at Seattle, King county, Washington Territory, to be present at the taking of said depositions.

That on the 29th day of November, A. D. 1887, I was attended by U. M. Rasin, proctor for the respondent and appellant aforesaid, no person appearing on behalf of the libellant and appellee in said cause, and also by the said witnesses, and each of said witnesses was by me carefully examined and sworn and cautioned to testify the whole truth, and the testimony by him given was reduced to writing under my direction and carefully read over to said witness and thereafter subscribed by the said witness in my presence.

And I further certify that I am not a counsellor or attorney of any *of any* of the parties of said cause nor in any way interested in the event of said cause.

LOUIS L. WILLIAMS,
United States Commissioner within and for the
[SEAL.] *District of Alaska, at Juneau City.*

248 In the United States Circuit Court, Ninth Circuit, District of Washington, Northern Division.

THE UNITED STATES OF AMERICA
vs.
THE STEAMER IDAHO, &c. } No. 12.

I hereby adopt and approve of all the findings of the district court which first tried this cause.

In construing the statute entitled An act to amend the law relative to the seizure and forfeiture of vessels for breach of the revenue laws, approved Feb'y 8th, 1881, and found on page 322 of vol. 21, U. S. Statutes at Large, I find that it does not require it to appear beyond a reasonable doubt that Captain Carroll was a consenting party to the illegal acts set forth in the libel in regard to the smuggling of the opium described in the same. If I was of the opinion that it required such consent to be established beyond a reasonable doubt, I should find in favor of the claimants in this action.

It is ordered that the judgment and decree of the district court which tried this cause be, and the same is hereby, affirmed.

HIRAM KNOWLES, *Judge.*

249 In the United States Circuit Court, Ninth Circuit, District of Washington, Northern Division.

THE UNITED STATES OF AMERICA
vs.
THE STEAMSHIP IDAHO, HER ENGINES, BOILERS, TACKLE, Apparel, and Furniture; James Carroll, Master, for the Pacific Coast Steamship Company, Owner, Claimant. } No. 12.

KNOWLES, *J.:*

This cause having been heretofore pending on appeal in the supreme court of Washington from the third judicial district court of Washington Territory, holding terms at Seattle for the counties of King and Kitsap, the said cause while pending in the supreme court of Washington was transferred to this court as the successor of the said supreme court of Washington under the provisions of the enabling act providing for the admission of Washington into the Union. On the 30th day of September, 1890, the said cause come on for hearing in this court before the Hon. Judge Knowles, judge of the district court of the district of Montana, sitting for and on behalf of Judge Hanford, the claimants being represented by Col. J. C. Haines, proctor, and the libellant, The United States of America, being represented by Patrick H. Winston, the United States attorney for the district of Washington. The court thereupon proceeded to hear the arguments of the several parties upon the merits of said cause, and after consideration of the matter makes the following findings of fact, conclusions of law, and decree on this 2nd day of October, 1890:

Findings of Fact.

1st. That it does not appear from the evidence beyond a reasonable doubt that the master of the steamship Idaho, Captain Carroll, was a consenting party to the illegal acts set forth in the libel in regard to the smuggling of the opium, but the fact that Captain Carroll was a consenting party to the illegal acts was established by a preponderance of the evidence.

I.

That between the 1st day of December, 1885, and the 1st
250 day of January, 1886, the steamship Idaho, whereof James Carroll was then master and the Pacific Coast Steamship Company was then owner, was regularly employed in carrying passengers and freight between the port of Portland, in the State of Oregon, and the port of Sitka, in the Territory of Alaska, via the port of Port Townsend, in Washington Territory, the ports of Victoria and Nanimo, in British Columbia, and other intermediate ports.

II.

That said steamship Idaho made a voyage on said route from Portland to Sitka and return under the command of said James Carroll in the month of December, 1885.

III.

That during the progress of said voyage of said vessel on the 20th day of December, 1885, after the setting of the sun and between the hours of 10 and 12 o'clock p. m. of said day, certain merchandise, to wit, fourteen barrels containing three thousand eleven and one-half pounds of prepared opium, of the value of $36,138.00, were, with the knowledge, consent, and assistance of said James Carroll, who was then master of said vessel, unladen and discharged from and out of said steamship Idaho, at a place called Kassan bay, in said Territory of Alaska and within the collection district of Alaska.

IV.

That said merchandise was brought in said steamship Idaho to said place called Kassan bay from the port of Victoria, in the province of British Columbia.

V.

That said merchandise was and is of foreign growth and manufacture and subject to duty upon being imported into the United States, and the duty thereon was not paid or secured to the United States at any time prior to the unlading thereof as aforesaid.

VI.

That no permit was ever granted by the collector of customs for the district of Alaska or any officer of the customs or other officer of the United States for the unlading or discharge of said merchandise.

VII.

That the value of said merchandise at Kassan bay afore-
251 said, on the 21st day of December, 1885, was a sum greater than four hundred dollars.

VIII.

That the unlading and discharge of said merchandise at said time without a permit was not caused or rendered necessary by an accident—unavoidable or otherwise—necessity, or distress.

IX.

That afterwards and during the progress of the same voyage, on the 26th day of December, 1885, at the port of Port Townsend, in the Territory of Washington and within the collection district of Puget sound, certain merchandise, to wit, six hundred and twenty-seven and one-half pounds of prepared opium, then and there of the value of $7,530.00, was fraudulently and with the knowledge and consent of said James Carroll, who was then master of said vessel, brought into the United States in and on board of said steamship Idaho from said port of Victoria, in the province of British Columbia, said opium being of foreign growth and manu-

facture, subject to duties upon being imported into the United States, and the duty thereon not having been paid or secured to the United States.

X.

That no part of either of said lots of merchandise, to wit, the 3,011.12 pounds of prepared opium carried in said vessel to Kassan bay, in Alaska, and said 627½ pounds of prepared opium carried in said vessel to Port Townsend, in Washington Territory, on said voyage, was included in the manifest of said vessel for said voyage.

XI.

That said James Carroll, master of said steamship Idaho, knowingly and intentionally transported said three thousand eleven and one-half pounds of prepared opium in said vessel from Victoria aforesaid to Kassan bay aforesaid and caused the same to be there unladen and discharged from said vessel in the night-time without permit and failed to enter the same in the manifest of said vessel for said voyage, and knowingly and intentionally brought said six hundred and twenty-seven and one-half pounds of prepared opium in said vessel from Victoria aforesaid to Port Townsend
252 aforesaid and failed to enter the same in said manifest for said voyage, with the intent on his part then and there and thereby to defraud the United States.

XII.

That the place where said three thousand and eleven and one-half pounds of prepared opium was unladen as aforesaid, to wit, Kassan bay, at the time of the unlading of said merchandise from said vessel, was not a port of entry or port of delivery of the United States and not a proper place for the discharge of merchandise brought from a foreign country.

XIII.

That for the causes aforesaid the said James Carroll, master of said steamship Idaho, by force of sections 2806, 2807, 2808, and 2809 of the Revised Statutes of the United States, has incurred a penalty and become indebted to the United States in the sum of one hundred and eight thousand four hundred and fourteen dollars and also incurred a penalty further and become indebted to the United States in the further sum of twenty-two thousand five hundred and ninety dollars, and also by force of section 2867 of the Revised Statutes of the United States he, the said James Carroll, master, and the mate of said vessel have each respectively incurred a further penalty and become indebted to the United States in the sum of one thousand dollars, and by force of section 3088 of the Revised Statutes of the United States said steamship Idaho has become and is subject to a lien for the several amounts of said penalties, and also by force of section 2871, 2872, 2873, and 2874

of the Revised Statutes of the United States the said steamship Idaho, her engines, boilers, tackle, apparel, and furniture, have become, and the same are, forfeited to the United States.

XIV.

That for the causes above stated the said steamship Idaho, on the 29th day of January, 1886, at the port of Port Townsend, in Jefferson county, Washington Territory, in the third judicial district of Washington Territory and within the collection district of Puget sound and on waters navigable from the sea by vessels of ten or more tons burden and within the admiralty and maritime jurisdiction of the United States and within the jurisdiction of this
253 court, was seized and taken into custody by H. F. Beecher, who was then and there the duly appointed, qualified, and acting collector of the district of Puget sound, and was held in custody of said collector of customs within the collection district aforesaid and within the third judicial district of Washington Territory and within the jurisdiction of this court at the time the libel herein was filed and until the same was released by an order of the court herein.

XV.

That on the 30th day of January, 1886, said James Carroll, master of said steamship Idaho, claimed said vessel and intervened for the Pacific Coast Steamship Company, the owner of said vessel, as claimant, and filed a stipulation herein with R. W. De Lion and P. B. Cornwall, as sureties, in the sum of two hundred and fifty dollars, conditioned that the said claimant shall pay all costs and expenses which shall be awarded against him by this court or on appeal by the appellate court.

XVI.

That said steamship Idaho has been, on the application of said claimant and under the direction of this court, duly appraised according to law at the sum of thirty thousand dollars, and on the 20th day of January, 1886, the said James Carroll, claimant, with R. W. De Lion, P. B. Cornwall, and Thomas T. Minor, as sureties, executed a bond to the United States for the payment of a sum equal to said sum of thirty thousand dollars for the release of said vessel; and thereupon, on application of said claimant, said vessel was by order of the court duly released from custody and delivered to said claimant.

Wherefore the findings of the territorial district court are hereby approved and affirmed in every particular, and, by virtue of the law and by reason of the premises, it is considered, adjudged, and decreed by the court that the said steamship Idaho, her engines, boilers, tackle, apparel, and furniture, be, and the same are hereby, for the causes alleged in the libel herein, condemned and forfeited to the United States, and that the claimant herein do pay into the registry of the court within twenty days from this date the value

of said vessel, to wit, the sum of thirty thousand dollars, to-
254 gether with the amount of the libellant's cost and expenses herein, to be taxed, and that if default shall be made in such judgment, judgment shall be entered herein against the stipulators.

Enter.

HIRAM KNOWLES,
U. S. Dist. Judge for Dist. of Montana, Hold- Court in Dist. of Washington by Assignment.

And on the back of the foregoing is endorsed the words and figures following:

In the United States circuit court, ninth circuit, for the district of Washington. United States of America *vs.* The S. S. Idaho. No. 12. Decree. Filed Oct. 2, 1890. In the U. S. circuit court. A. Reeves Ayres, clerk, by R. M. Hopkins, deputy.

255 In the Circuit Court of the United States for the District of Washington, Ninth Circuit.

THE UNITED STATES OF AMERICA, Libellant,
vs.
STEAMSHIP "IDAHO," HER ENGINES, BOILERS, TACKLE, Apparel, and Furniture, Respondent; Pacific Coast Steamship Company, Claimant. } No. 12.

And now, on this 2nd day of October, 1890, comes into open court the claimant, by J. C. Haines, its proctor, and prays and appeal from the final decree this day rendered in the above-entitled cause by this court to the Supreme Court of the United States; and thereupon said appeal is allowed, and the claimant is by the — required to execute and file with the clerk of this court within thirty days from this date a good and sufficient bond on appeal in the sum of ten thousand dollars ($10,000), with two good sureties to be approved by the clerk of this court.

HIRAM KNOWLES, *Judge.*

256 In the Supreme Court of the United States of America.

THE UNITED STATES OF AMERICA, Libellant and Appellee,
vs.
THE STEAMSHIP "IDAHO," HER ENGINES, BOILERS, TACKLE, Apparel, and Furniture, Respondent and Appellant; The Pacific Coast Steamship Company, Claimant and Appellant.

Know all men by these presents that we, The Pacific Coast Steamship Company, as principal, and George C. Perkins and John L. Howard, as sureties, are held and firmly bound unto the United States of America in the sum of ten thousand ($10,000) dollars, lawful money of the United States, to be paid to the said United States of America; to which payment, well and truly to be made, the Pacific Coast Steamship Company binds itself and its successors and the

said George C. Perkins and John L. Howard bind themselves and their and each of their heirs, executors, and administrators jointly, severally, and firmly by these presents.

In witness whereof the said Pacific Coast Steamship Company has caused these presents to be subscribed by its president and attested by its corporate seal this — day of October, 1890, and the said George C. Perkins and John L. Howard had on the same day hereunto set their respective hands and seals.

Whereas the said Pacific Coast Steamship Company has lately appealed to the Supreme Court of the United States from the decree of the honorable judge of the circuit court of the United States sitting in and for the district of Washington, in the ninth circuit, made and pronounced in the above-entitled cause in favor of the said United States of America and against the said Pacific Coast Steamship Company for the sum of ten thousand dollars ($10,000.00) and costs: Now, therefore, if the said appellant shall prosecute its said appeal to effect and answer all damages and costs if it fail to make its appeal good, and shall well and truly abide by and fulfill and perform the judgment and decree of the said Supreme Court in the premises, and shall pay also such costs and charges as
257 shall *as shall* be ordered and adjudged to be paid on its part, then this obligation shall be void; otherwise to be and remain in full force and virtue.

Attest:

PACIFIC COAST STEAMSHIP COMPANY,
By JOHN L. HOWARD,
Its Vice-Pres'd't.
GEO. C. PERKINS. [SEAL.]
JOHN L. HOWARD. [SEAL.]

GEO. C. PERKINS,
[SEAL.] *Its Secretary.*

Taken and acknowledged this 30th day of October, 1890, before me—

[SEAL.] J. S. MANLEY,
Commissioner U. S. Circuit Court, Northern District of California.

STATE OF CALIFORNIA, }
City and County of San Francisco, } *ss:*

George C. Perkins and John L. Howard, being duly sworn, each for himself on oath says that he is a resident of the State of California and is worth at least the sum of ten thousand ($10,000) dollars over and above all debts and liabilities and exclusive of property exempt from execution.

GEO. C. PERKINS.
JOHN L. HOWARD.

Subscribed and sworn to before me this 30th day of October, 1890.

[SEAL.] J. S. MANLEY,
Commissioner U. S. Circuit Court, Northern District of California.

Filed Nov. 6, 1890, in the U. S. circuit court.
A. REEVES AYRES, *Clerk*,
By R. M. HOPKINS, *Deputy*.

258 In the Circuit Court of the United States for the District of Washington, Ninth Circuit.

UNITED STATES OF AMERICA, Libellant,
vs.
THE STEAMSHIP "IDAHO," HER TACKLE, ETC., Respondent; PACIFIC COAST STEAMSHIP COMPANY, Claimant.

To the clerk of the above-entitled court:

Prepare and transmit with all convenient speed, properly certified, to the Supreme Court of the United States a transcript of the record in the above-entitled cause as directed by law to be made upon appeal to the Supreme Court of the United States and copies of the proofs and of all entries and papers on file in said cause and indicate to me as soon as possible the amount of your fees for the preparation and certifying of said transcript, copies of proofs, entries, and papers on file, and the same will be at once paid to you by me.

J. C. HAINES,
Proctor for Respondent and Appellant.

And on the back of the foregoing is endorsed the words and figures following:

Filed Nov. 10, 1890, in the U. S. circuit court. A. Reeves Ayres, clerk, by R. M. Hopkins, deputy.

259 In the Circuit Court of the United States for the District of Washington, Northern Division.

UNITED STATES OF AMERICA, Libellant,
vs.
THE STEAMSHIP "IDAHO," HER ENGINES, BOILERS, Tackle, Apparel, and Furniture, Respondent; Pacific Coast Steamship Company, Claimant.
No. —. Stipulations.

It is hereby stipulated and agreed that the following exhibits now in the possession of the clerk of this court and which were offered in evidence upon the trial of the above-entitled cause in the district court of the third judicial district of Washington Territory, holding terms at Seattle, may be attached to the transcript of the evidence and proceedings in this cause and may be transmitted to the Supreme Court of the United States in the original form with said transcript and exhibits, and that when the same are so attached

and transmitted they will have the same effect as if embodied by copy in said transcript.

The list of exhibits to be so attached and transmitted is as follows:

Exhibit "A," same being Lai Yuan label, printed slip.
" "C," " " Daily British Colonist, Nov. 28, 1885.
" "H," " " paper-writing, copy record #4789, dist. court, Seattle.
" "I," " " paper-writing, copy record #4783, dist. court, Seattle.
" "K," " " U. S. Commissioner Swan's report.
" "L," " " inward foreign manifest, Idaho.
" "M," " " coasting manifest, Idaho.
" "N," " " old newspaper printed.
" "O," " " manifest of cargo, bound book, leaves 1 to 306.
" "Q," " " written permit to touch ports.
260 " "R," " " telegram permit to touch ports.
" "T," " " paper-writing, inward foreign manifest.

And whereas the following exhibits, to wit:

Exhibit "B," same being burlap sacks, 14.
" "C," " " opium can (small copper).
" "C," " " " " " "
" "E," " " " " (large tin).
" "F," " " small copper opium can.
" "O," " " manifest of cargo, unbound leaves.
" "S," " " chart map, Chatham straits,

are not in the possession of the clerk of this court, but have been and cannot bee found in the office of said clerk. It is stipulated that the record and transcript of this cause upon appeal to the said supreme court shall, when certified, without said last-named exhibits, be considered as embodying all the evidences in said cause, and it is hereby stipulated that the clerk of this court shall certify to the said transcript in the usual form as if the same contained all said omitted exhibits.

And it is further stipulated that the goods seized by the United States and offered in evidence upon the trial of this cause in the district court for the third judicial district of Washington Territory, holding terms at Seattle, as opium prepared for smoking was in fact such opium, and that the same was prior to the commencement of this action seized by the United States as smuggled opium and as having been brought into the United States contrary to law and was prior to the trial of this cause in said district court of the third judicial district of Washington Territory by decree of said district court condemned and forfeited to the United States and ordered to be sold in due course of law.

P. H. WINSTON,
United States Attorney,
By P. C. SULLIVAN,
Assistant U. S. Attorney, Proctor for Libellant.
J. C. HAINES,
Proctor for Claimant.

261 And on the back of the foregoing is endorsed the words and figures following:

In the circuit court of the United States for the district of Washington. United States of America, libellant, *vs.* S. S. "Idaho," her engines, &c., respondent. Stipulation. Filed this fifth day of January, 1891. A. Reeves Ayres, clerk, by R. M. Hopkins, deputy clerk. J. C. Haines, Haller building, attorney for claimant.

262 In the Circuit Court of the United States for the District of Washington, Northern Division.

UNITED STATES OF AMERICA, Libellant,
vs.
THE STEAMSHIP "IDAHO," HER ENGINES, BOILERS, TACKLE, APPAREL, and Furniture, Respondent; Pacific Coast Steamship Company, Claimant.

I, A. Reeves Ayres, clerk of the circuit court of the United States for the district of Washington, hereby certify that the foregoing is a transcript of the record of the circuit court aforesaid in the cause named at the beginning of said transcript; and I further certify that, in accordance with the stipulations set forth in the foregoing transcript and found on pages 259 to 261 thereof, I have certified and transmitted with said transcript and attached to the same the following exhibits, to wit:

Exhibit "A," same being Lai Yuan label, printed slip.
" "G," " " Daily British Colonist, Nov. 28, 1885.
" "H," " " paper-writing, copy record # 4789, dist. court, Seattle.
" "I," " " paper-writing, copy record # 4783, dist. court, Seattle.
" "K," " " paper-writing, U. S. Commissioner Swan's report.
" "L," " " inward foreign manifest, Idaho.
" "M," " " coasting manifest, "
263 " "N," " " old newspaper, printed.
" "O," " " manifest of cargo, bound book, leaves 1 to 306.
" "Q," " " written permit to touch ports.
" "R," " " telegram permit to touch ports.
" "T," " " paper-writing, inward foreign manifest.

And I further certify that, in accordance with said stipulation, I have omitted from said transcript and have not transmitted with the same the following exhibits:

Exhibit "B," same being burlap sacks, 14.
" "C," " " opium can (small copper).
" "C," " " " " " "
" "E," " " " " (large tin).
" "F," " " small copper opium can.
" "O," " " manifest of cargo, unbound leaves.
" "S," " " chart map, Chatham straits.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 24th day of March, 1891.

{Seal United States Circuit Court, Northern Division, District of Washington.}

A. REEVES AYRES,
By R. M. HOPKINS, *Deputy.*

Endorsed on cover: Case No. 14,569. Washington C. C. U. S. No. 123. The Pacific Coast Steamship Company, claimant of the steamship "Idaho," her engines, &c., appellant, *vs.* The United States. Filed April 7, 1891.

JAN 3 1895
JAMES H. MCKENNEY

Supreme Court of the United States.

OCTOBER TERM, 1894.

No. 123.

THE PACIFIC COAST STEAMSHIP COMPANY, Claimant of the Steamship "Idaho," her Engines, &c.,

Appellant,

against

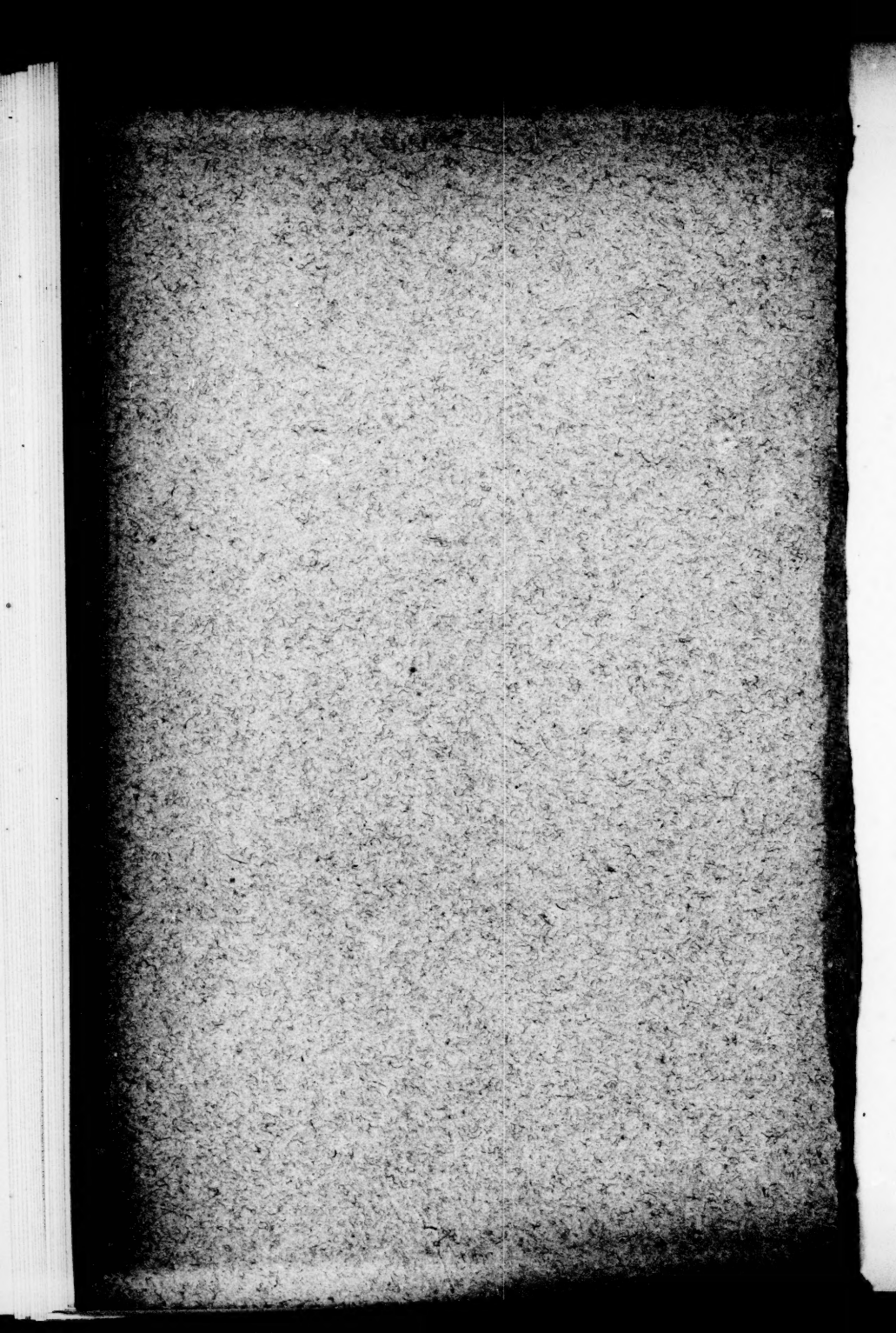
THE UNITED STATES,

Appellee.

APPELLANT'S BRIEF.

STEPHEN M. WHITE,
ARTEMAS H. HOLMES,
Appellant's Attorneys.

C. G. Burgoyne, Walker and Centre Sts., N. Y.



Supreme Court of the United States.

OCTOBER TERM, 1894.

No. 123.

THE PACIFIC COAST STEAMSHIP COMPANY, Claimant of the Steamship "Idaho," her engines, &c.,
Appellant,

AGAINST

THE UNITED STATES,
Appellee.

Brief for Appellant and Claimant.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WASHINGTON.

Statement of the Case.

This is a libel *in rem*, in admiralty, brought against the steamship "Idaho," her engines, &c., in the District Court of Washington Territory, for a forfeiture of the vessel for violation of certain provisions of the Revised Statutes of the United States, Title 34, entitled Collection of Duties upon Imports.

The libel of information was filed and the vessel seized on January 29th, 1886. On the same day James Carroll, master of the "Idaho," claimant, intervened

for the Pacific Coast Steamship Company, as owner of the vessel, and gave bond, with sureties, for the appraised value of the vessel. The vessel was duly appraised at $30,000. The bond therefor with sureties was given and approved, and the vessel was released and delivered to the claimant (Record, pp. 1–14).

[NOTE. The "Idaho" continued to run on the same route as a common carrier until November 29, 1889, when she was wrecked near the Straits of Fuca, and became a total loss to her owners, without insurance.]

The cause having been tried and submitted to the District Court for Washington Territory, the findings and decree of said Court were filed December 9, 1886, whereupon it was adjudged and decreed that the vessel was condemned and forfeited to libellant, and that claimant pay $30,000, the value of the vessel, into court, with costs and expenses (pp. 159–162).

An appeal to the Supreme Court of Washington Territory was prosecuted by the claimant (pp. 163–165). Pending that appeal, and pursuant to an Act of Congress entitled "An Act providing for the admission of Washington Territory into the Union," passed February 22, 1889, the cause was, on January 13, 1890, duly transferred to the Circuit Court of the United States for the District of Washington (pp. 167, 168).

The cause was thereupon heard by said Circuit Court of the United States on September 30th, 1890, and on October 2, 1890, the findings and decree of said Circuit Court were made and filed, whereby the findings and decree of said District Court were in all respects approved and affirmed (pp. 185–189).

Thereupon the appeal to this Court was prosecuted, allowed and perfected on October 2, 1890 (pp. 189–194).

The matter in dispute exceeds the sum or value of five thousand dollars.

The libel of information contained four counts (pp. 1–4).

The *first* count, omitting the formal jurisdictional facts, alleges in substance:

That on December 21, 1885, at Kassan Bay, Territory of Alaska, certain merchandise consisting of 3,011½ pounds of prepared opium, of the value of $36,138, was fraudulently and with the knowledge and consent of the master, Carroll, and the intent on the part of said master thereby to defraud the United States, brought into the United States on board of said "Idaho" from a foreign port, viz., Victoria, British Columbia; no part of said merchandise was included or described in the manifest of the cargo of said vessel; by reason whereof, and by force of Sections 2806, 2807, 2809 and 3088 of the Revised Statutes, the master incurred a penalty of $108,414, and said vessel became and was subject to a lien for said penalty.

The *second* count alleges in substance:

That, on January 14, 1886, at Port Townsend, in the United States, certain merchandise, consisting of 627½ pounds of prepared opium of the value of $7,530 was fraudulently and with the knowledge and consent of the said master, and with the intent on the part of said master thereby to defraud the United States, brought into the United States on board said "Idaho" from a foreign port, viz.: Victoria, British Columbia; no part of said merchandise was included or described in the manifest of the cargo of said vessel; by reason whereof and by force of said Sections 2806, 2807, 2809 and 3088 the master incurred a penalty of $22,590, and said

vessel became and was subject to a lien for said penalty.

The *third* count alleges in substance:

That on December 21, 1885, at Kassan Bay, the merchandise described in the *first* count was fraudulently and with the knowledge and consent of said master, and with the intent on the part of the master thereby to defraud the United States, brought into the United States on board said "Idaho" from said foreign port; and, before said vessel had come to a proper place of discharge, said merchandise was, at Kassan Bay, fraudulently, with the knowledge and consent of the master and mate, and with the intent on the part of said master to defraud the United States, unlawfully and clandestinely unladen and discharged without a permit; by reason whereof and by force of Section 2867 the master and mate have incurred a penalty, &c., and the said vessel has become and is now subject to a lien for said penalty.

The *fourth* count alleges in substance:

That on December 21, 1885, at Kassan Bay, the merchandise described in the first and third counts, of the value of $36,138, with the knowledge and consent of James Carroll, master, and with intent on the part of said master thereby to defraud the United States, was brought into the United States on board said "Idaho" from a foreign port, viz., Victoria, and unladen from said vessel in the night-time, without a permit or any permit, contrary to the statutes, and by reason whereof, and by force of Sections 2871, 2872, 2873 and 2874, said vessel became forfeited to the United States.

The prayer was for a forfeiture of the vessel.

The Sections of Title XXXIV. of the Revised Stat-

utes pleaded in the libel are annexed hereto as Schedule A.

The Answer to the Information by the Owner and Claimant was a specific denial of all the material allegations of each of the four counts of the Libel of Information (Rec. pp. 23–26).

The owner and claimant, at the trial and on the appeal below, relied upon the failure of proof to establish the material facts of the libel, and also relied, as a defense, upon an Act of Congress of the United States (United States Statutes at Large, Volume XXI., Chapter 34, page 332, approved February 8, 1881), entitled "An Act to amend the law relative to the seizure and forfeiture of vessels for breach of the revenue laws," which is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That no vessel used by any person or corporation, as common carriers, in the transaction of their business as such common carriers, shall be subject to seizure or forfeiture by force of the provisions of title thirty-four of the Revised Statutes of the United States, unless it shall appear that the owner or master of such vessel, at the time of the alleged illegal act, was a consenting party or privy thereto.

Approved February 8, 1881.

It is plain upon the proofs and is conceded that the vessel was used by the Pacific Coast Steamship Company as a common carrier, in the transaction of its business as such common carrier, and that the company, the owner, at the time of the alleged illegal acts, was *not* a consenting party or privy thereto. It was not charged in the libel and no proof was offered to show that the owner was, in the least degree, a consenting party or privy to the illegal acts alleged.

Two principal issues or controversies were involved

on the trial in the Territorial District Court upon the proofs there adduced, and the same issues were renewed on the appeal to the United States Circuit Court, upon the proofs below and also upon the additional proofs taken in the Circuit Court on behalf of the owner and claimant, such additional proof being at pages 173–183 of the Record.

Those principal issues were :

First Issue.

Was the opium found on the vessel at Port Townsend, and in the barrels discharged from the "Idaho" at Kassan Bay, taken on board at and brought from Victoria, B. C., a foreign port, or taken on board and brought from Juneau, a domestic port ?

Second Issue.

Was Captain Carroll, the master of the "Idaho," at the time of the alleged illegal acts, a consenting party or privy thereto ?

The voyage on which the illegal acts are charged was one of the vessel's usual monthly trips from Portland, Oregon, to Sitka, Alaska, and return, by the following itinery ; touching at Port Townsend, Wash.; Victoria, B.C. ; Nanimo, B. C. ; Departure Bay, B. C. ; Tongas, Kassan Bay, Wrangle, Juneau, Douglass Island, Killisnoo, Sitka, returning by the same route; making the same stops, in reverse order, as en route to Sitka. Of the points named Victoria, Nanimo and Departure Bay are the only foreign ports ; all others being domestic ports.

The first issue was apparently regarded by both parties as the crucial one, and the testimony, which is

volumnious, bears upon the history of the voyage and the minutest details of it.

The Proofs on the First Issue.

The libellant's proofs were to the effect that at Victoria, B. C., on the night of December 8th, 1885, on the northbound voyage, two drayloads of barrels, fourteen in all, were taken on board, *which were the identical barrels containing opium discharged at Kassan Bay* on the return trip, and there found and seized on December 21, 1885.

The proofs by the owner and claimant were to the effect that the barrels taken on board at Victoria were ship stores; that on arrival at Sitka the "Idaho" discharged all her cargo and was empty except a lot of iron bars, which had been carried beyond its destination by mistake, and that the barrels containing opium discharged at Kassan Bay on the return trip, and there found and seized December 21st, 1885, were taken on board on the return trip at Juneau, a domestic port; that at Juneau, on the up trip, one C. R. Langtry arranged for the transportation of fourteen barrels, said to contain skins (together with some bales of furs) then in the warehouse at Juneau, from Juneau to Kassan Bay, when the "Idaho" should call at Juneau on the return trip; said Langtry being both shipper and consignee of the barrels and bales, and stating that he desired the goods transported to Kassan Bay, whence he intended transporting them by sailing vessel to Cape Fox; that the ship's crew at Juneau, on the up trip, removed said fourteen barrels from inside the warehouse to outside and alongside the warehouse, to make room for cargo dis-

charged at Juneau; that those same barrels were taken aboard at Juneau on the return trip, transported to Kassan Bay, *and were the identical barrels containing opium discharged at Kassan Bay on the return trip* and there found and seized on December 21, 1885. For the success of libellant it was vital to prove that the opium came *from a foreign port;* hence the contest was confined to the first issue.

That was the main issue about which the parties contended.

The Proofs on the Second Issue.

No direct testimony or proof was adduced that the master was a consenting party or privy to the alleged illegal act. All the testimony and proofs related to the facts and circumstances of the voyage, what happened at Victoria, on the up trip, at Juneau and Kassan Bay on both the up and return trips, to what transpired on the voyage generally, and the general course of business on the "Idaho."

The opinion, decision and findings of the Circuit Court, from which this appeal is taken, are as follows (pp. 184–189):

I hereby adopt and approve of all the findings of the District Court which first tried this cause.

In construing the statute, entitled an act to amend the law relative to the seizure and forfeiture of vessels for breach of the revenue the laws, approved February 8th, 1881, and found on page 322 of Vol. 21, U. S. Statutes at Large, I find that it does not require it to appear beyond a reasonable doubt that Captain Carroll was a consenting party to the illegal acts set forth in the libel in regard to the smuggling of the opium described in the same. If I was of the opinion that it required such consent to be established beyond a reasonable doubt, I should find in favor of the claimants in this action.

It is ordered that the judgment and decree of the

District Court which tried this cause be, and the same is hereby, affirmed.

HIRAM KNOWLES, Judge.

FINDINGS OF FACT.

1st. That it does not appear from the evidence beyond a reasonable doubt that the master of the steamship "Idaho," Captain Carroll, was a consenting party to all the illegal acts set forth in the libel in regard to the smuggling of the opium, but the fact that Captain Carroll was a consenting party to the illegal acts was established by a preponderance of the evidence.

I.

That between the 1st day of December, 1885, and the 1st day of January, 1886, the steamship "Idaho," whereof James Carroll was then master and the Pacific Coast Steamship Company was then owner, was regularly employed in carrying passengers and freight between the port of Portland, in the State of Oregon, and the port of Sitka, in the Territory of Alaska, via the port of Port Townsend, in Washington Territory, the ports of Victoria and Nanimo, in British Columbia, and other intermediate ports.

II.

That said steamship "Idaho" made a voyage on said route from Portland to Sitka and return under the command of said James Carroll in the month of December, 1885.

III.

That during the progress of said voyage of said vessel on the 20th day of December, 1885, after the setting of the sun and between the hours of 10 and 12 o'clock P. M. of said day, certain merchandise, to wit, fourteen barrels containing three thousand eleven and one-half pounds of prepared opium, of the value of $36,138, were, with the knowledge, consent and assistance of said James Carroll, who was then master of

said vessel, unladen and discharged from and out of said steamship "Idaho," at a place called Kassan Bay, in said Territory of Alaska, and within the collection district of Alaska.

IV.

That said merchandise was brought in said steamship "Idaho" to said place called Kassan Bay from the port of Victoria, in the province of British Columbia.

V.

That the said merchandise was and is of foreign growth and manufacture and subject to duty upon being imported into the United States, and the duty thereon was not paid or secured to the United States at any time prior to the unlading thereof as aforesaid.

VI.

That no permit was ever granted by the Collector of Customs for the District of Alaska, or any officer of the customs or other officer of the United States, for the unlading or discharge of said merchandise.

VII.

That the value of said merchandise at Kassan Bay aforesaid, on the 21st day of December, 1885, was a sum greater than four hundred dollars.

VIII.

That the unlading and discharge of said merchandise at said time without a permit was not caused or rendered necessary by an accident,—unavoidable or otherwise—necessity or distress.

IX.

That afterwards, and during the progress of the same voyage, on the 26th day of December, 1885, at the port of Port Townsend, in the Territory of Washington, and within the collection district of Puget Sound, certain

merchandise, to wit, six hundred and twenty-seven and one-half pounds of prepared opium, then and there of the value of $7,530, was fraudulently, and with the knowledge and consent of said James Carroll, who was then master of said vessel, brought into the United States in and on board the said steamship Idaho from said port of Victoria, in the Province of British Columbia, said opium being of foreign growth and manufacture, subject to duties upon being imported into the United States, and the duty thereon not having been paid or secured to the United States.

X.

That no part of either of said lots of merchandise, to wit, the 3,011.12 pounds of prepared opium carried in said vessel to Kassan Bay, in Alaska, and said 627½ pounds of prepared opium carried in said vessel to port Townsend, in Washington Territory, on said voyage, was included in the manifest of said vessel for said voyage.

XI.

That said James Carroll, master of said steamship "Idaho," knowingly and intentionally transported said three thousand eleven and one-half pounds of prepared opium in said vessel from Victoria aforesaid to Kassan Bay aforesaid, and caused the same to be there unladen and discharged from said vessel in the night time without permit and failed to enter the same in the manifest of said vessel for said voyage, and knowingly and intentionally brought said six hundred and twenty-seven and one-half pounds of prepared opium in said vessel from Victoria aforesaid to Port Townsend aforesaid, and failed to enter the same in said manifest for said voyage, with the intent on his part then and there and thereby to defraud the United States.

XII.

That the place where said three thousand and eleven and one-half pounds of prepared opium was unladen as aforesaid, to wit, Kassan Bay, at the time of the unlading of said merchandise from said vessel, was not a

port of entry or port of delivery of the United States, and not a proper place for the discharge of merchandise brought from a foreign country.

XIII.

That, for the causes aforesaid, the said James Carroll, master of said steamship "Idaho," by force of Sections 2806, 2807, 2808 and 2809 of the Revised Statutes of the United States, has incurred a penalty and become indebted to the United States in the sum of one hundred and eight thousand four hundred and fourteen dollars, and also incurred a penalty further and become indebted to the United States in the further sum of twenty-two thousand five hundred and ninety dollars; and also, by force of Section 2867 of the Revised Statutes of the United States, he, the said James Carroll, master, and the mate of said vessel, have each respectively incurred a further penalty and become indebted to the United States in the sum of one thousand dollars; and, by force of Section 3088 of the Revised Statutes of the United States, said steamship "Idaho" has become and is subject to a lien for the several amounts of said penalties; and also, by force of Section 2871, 2872, 2873 and 2874 of the Revised Statutes of the United States, the said steamship "Idaho," her engines, boilers, tackle, apparel and furniture, have become, and the same are, forfeited to the United States.

XIV.

That, for the causes above stated, the said steamship "Idaho," on the 29th day of January, 1886, at the port of Port Townsend, in Jefferson County, Washington Territory, in the Third Judicial District of Washington Territory, and within the collection district of Puget Sound, and on waters navigable from the sea by vessels of ten or more tons burden, and within the admiralty and maritime jurisdiction of the United States and within the jurisdiction of this Court, was seized and taken into custody by H. F. Beecher, who was then and there the duly appointed, qualified and acting Collector of the District of Puget Sound, and was held in custody of said Collector of Customs within the collection district aforesaid and within the Third Judicial

District of Washington Territory, and within the jurisdiction of this Court at the time the libel herein was filed and until the same was released by an order of the Court herein.

XV.

That on the 30th day of January, 1886, said James Carroll, master of said steamship "Idaho," claimed said vessel, and intervened for the Pacific Coast Steamship Company, the owner of said vessel, as claimant, and filed a stipulation herein with R. W. De Lion and P. B. Cornwall, as sureties, in the sum of two hundred and fifty dollars, conditioned that the said claimant shall pay all costs and expenses which shall be awarded against him by this Court or on appeal by the appellate Court.

XVI.

That said steamship "Idaho" has been, on the application of said claimant and under the direction of this Court, duly appraised according to law at the sum of thirty thousand dollars, and on the 20th day of January, 1886, the said James Carroll, claimant, with R. W. De Lion, P. B. Cornwall and Thomas T. Minor, as sureties, executed a bond to the United States for the payment of a sum equal to said sum of thirty thousand dollars for the release of said vessel; and, thereupon, on application of said claimant, said vessel was, by order of the Court, duly released from custody and delivered to said claimant.

Wherefore, the findings of the Territorial District Court are hereby approved and affirmed in every particular, and, by virtue of the law and by reason of the premises, it is considered, adjudged and decreed by the Court that the said steamship "Idaho," her engines, boilers, tackle, apparel and furniture, be, and the same are hereby, for the causes alleged in the libel herein, condemned and forfeited to the United States, and that the claimant herein do pay into the registry of the Court within twenty days from this date the value of said vessel, to wit, the sum of thirty thousand dollars, together with the amount of the libellant's cost and expenses herein to be taxed, and that, if default shall be

made in such judgment, judgment shall be entered herein against the stipulators.

Enter.

HIRAM KNOWLES,
U. S. Dist. Judge for Dist. of Montana,
Hold. Court in Dist. of Washington
by Assignment.

The above findings and decree of the Circuit Court numbered I. to XVI., pages 185 to 189 of the Record (250 to 254 of original), are identical with the findings and decree of the Territorial District Court numbered I. to XVI., pages 159 to 163 of the Record (211 to 215 of original), which latter were adopted and approved by the Circuit Court.

THE OPINION OF THE CIRCUIT COURT, FILED WITH THE FINDINGS AND DECREE, AND THE FINDING OF FACT OF THAT COURT MARKED 1ST, WHICH PRECEDES THE FINDINGS MARKED I. TO XVI., PRESENTS AND STATE THE LEGAL PROPOSITION WHICH APPELLANT INSISTS WAS ERROR.

The opinion and the finding 1st, alleged as errors, are in italics at pages 8 and 9, *supra*, of this brief.

Specification or Assignment of Errors Relied Upon.

The following questions of law arise upon the face of the record and are complained of as errors of the Court below:

FIRST.

(A) The Circuit Court held, in construing and applying the act approved February 8, 1881, that the act *does not* require it to appear beyond a reasonable doubt that the master was a consenting party or privy

to the alleged illegal acts; when it should have held that the act *does* require it to appear beyond a reasonable doubt that the master was a consenting party or privy thereto.

(B) The Circuit Court held that it was sufficient to work a forfeiture under the provisions of Title Thirty-four of the Revised Statutes, and that the Act of February 8, 1881, did not apply, if the fact that the master was a consenting party or privy to the alleged illegal acts was established by a *preponderance of the evidence;* when it should have held that it was necessary to establish the fact that the master was a consenting party or privy *beyond a reasonable doubt.*

SECOND.

(A) The Circuit Court erred, as matter of law, in finding that the opium described in Finding III. was unladen and discharged with the knowledge, consent and assistance of the master, because there was no evidence to sustain so much of said finding as determined that the master had any knowledge of, consented to, or assisted in the unloading or discharge thereof.

(B) The Circuit Court erred, as matter of law, in finding that the opium described in Finding IX. was brought into the United States fraudulently and with the knowledge and consent of the master, upon the ground and because there was no evidence to sustain so much of said finding as determined that the master had any knowledge of or consented thereto in any manner, whether fraudulently or otherwise.

(C) The Circuit Court erred, as matter of law, in

finding that the opium described in Finding XI., or any of it, was transported by the "Idaho" or unladen or discharged from said vessel, with the knowledge of the master, or intentionally on the part of the master, or with the intent of the master to defraud the United States; because there was no evidence to sustain so much of said finding as determined that the master had any knowledge of or consented thereto in any manner, whether fraudulently or otherwise.

THIRD.

(A) The Circuit Court erred in finding as a conclusion of law the finding marked XIII., and particularly so much thereof as finds and determines that the vessel, her engines, &c., have become and are forfeited to the United States.

(B) The Circuit Court erred in finding as a conclusion of law the finding marked XVI., and particularly so much thereof as approved and affirmed the findings and decree of the Territorial District Court and adjudged and decreed the condemnation and forfeiture of the vessel to the United States, and so much thereof as directs the payment by claimant of the appraised value of the vessel, and on default directs the entry of judgment against the stipulators.

POINT I.

Of the Errors Assigned as (A) Under First.

This action is for debt, for a penalty arising in law upon a statute, and though in form *ex contractu*, it is founded in fact upon a *tort*.

Chaffee vs. United States, 18 Wall., 516, 538.

United States vs. Shapleigh, 54 Fed. Rep., 126.

The provisions of Title 34 of the Revised Statues, under which the action is brought, must be read in the light of the Act of Congress of February 8, 1881 (p. 5, *supra)*. That act, by express terms, reads into the provisions of title thirty-four, wherever it is sought to enforce those provisions by the seizure or forfeiture of any vessel used as a common carrier, the requirement that "it shall appear that the owner or master of such vessel, at the time of the alleged illegal act, was a consenting party or privy thereto."

In this case the gravemen of the libel and the essential burden assumed by the libellant was to prove (1) that the opium found on and unladen from the vessel was from a foreign port, and (2) the guilty knowledge, intent or fraudulent conduct of the master in regard thereto.

The Government having proved that opium was found upon the vessel at Port Townsend, and that the vessel had discharged barrels at Kassan Bay which contained opium, directed all its proofs to establish that the said opium was brought from Victoria, B. C., a foreign port.

The proofs on the part of the owner all tended to disprove the Government's contention, and to prove that the opium was brought from Juneau, a domestic port.

The first essential fact was regarded by the parties as paramount to such an extent as to obscure the other essential fact—the consent or privity of the master to the illegal acts.

It must be conceded that the Government succeeded in its contention on the first issue, because there is some evidence to sustain the findings in that respect; and under the decisions of this Court in the *Gazette and Cargo*, 128 U. S., 474, 484, and the cases there cited, those findings cannot be now questioned.

But the Court not only found for the Government as to the first issue, upon which the evidence was conflicting, but also held that the same evidence warranted its finding for the Government upon the second issue—that the master was a consenting party or privy to the illegal acts—because that fact was established *by a preponderance of evidence only.*

It clearly appears that the Court made its findings and determination on the second issue upon doubtful and differential evidence, and not from evidence beyond a reasonable doubt, because in its opinion and its finding marked first (pp. 184, 185 of Record, and quoted in italics at pp. 8, 9, *supra*) the Court distinctly says so and also declares:

"*If I was of the opinion that it required such consent (of the master) to be established beyond a reasonable doubt, I should find in favor of the claimants in this action.*"

This situation, this ruling or adjudication of the Circuit Court, fairly presents the errors assigned by appellant under the class marked "First" at page 14, *supra.*

The learned Court seems to have made its determination on the theory that this action is *purely a civil action;* that, to establish a charge of crime in a civil action, the rule is that proof by a preponderance of evidence is sufficient; hence, in a civil action based upon such illegal acts, the presumption of innocence is not to be allowed; that in such an action, because in form a civil action, proof beyond a reasonable doubt was not required.

To this we answer:

The action at bar is not strictly a civil action, for it is for penalties and a forfeiture, and *its purpose is punishment;* and the rule stated by the Circuit Court, admitting its soundness in a purely civil action, does not apply as a rule of evidence, or as a rule of law, in an action of this mixed and quasi penal character; in an action to enforce a penalty and punishment.

Whatever the rule of evidence in a purely civil action, it is overcome and annulled, in this action, by the express provisions of the Act of February 8, 1881; a remedial statute having explicit relation to the statutory provisions under which this action was brought.

For our assertion that this action is not a purely civil nor a penal action, but lies on the margin or debatable ground between those two classes of action, we have the authority of this Court, speaking by Mr. Justice STORY, in *Taylor vs. United States*, 3 How., 201, 210, and followed and approved in *Cliquot's Champaigne*, 3 Wall., 114, 145, where it is said:

"Revenue laws are not penal laws in the sense that requires them to be construed with great strictness in favor of the defendant. They are rather to be regarded as remedial in their character, and intended to prevent fraud, suppress public wrong, and promote public

good. They should be so construed as to carry out the intention of the Legislature in passing them and most effectually accomplish these objects."

In the cases cited the application and construction of former revenue laws was involved, which statutes provided that, where probable cause had been shown by the prosecution, to be determined by the Court before the prosecution was had, the *onus probandi* should lie upon the claimant—the person prosecuted—and the questions were there, as here, fraudulent knowledge or intent, or not.

In our case there is lacking the statutory provision that the *onus probandi* is cast on the defendant, in any event; and we have for our guidance, in seeking the legislative intention in passing the Thirty-fourth Title of the Revised Statutes, the short, positive, plain and unambiguous Act of February 8, 1881.

Apart from the provisions of the Act of 1881, we urge and insist that the Court erred in determining that the forfeiture provisions of the Revised Statutes were fully satisfied, provided the guilty knowledge, intent or privity of the master was proven by a preponderance of evidence, and that proof beyond a reasonable doubt *was not required.*

In support of this contention this Court's determination in *Chaffee vs. United States*, 18 Wall., 516, 545, and its logic, is sufficient and unanswerable; and that decision was approved and confirmed in *Lillienthall's Tobacco*, 97 U. S., 237, 271, and is followed in *United States vs. Shapleigh*, *supra.*

The Chaffee case arose under Section 48 of the Act of June 30, 1864, "To provide internal revenue to support the Government, &c." (13 Stat. at Large, 240), and

was for the recovery of penalties for violation of the provisions of that act—a parallel action to the action at bar. This Court, after an extended statement of the testimony and facts in the case, sets forth the rules of evidence as stated by the Court below, and assigned as error, and at page 545 proceeds:

"The purport of all this was to tell the jury that, although the defendants *must be proved guilty beyond a reasonable doubt*, yet if the Government had made out a *prima facie* case against them, not one free from all doubt, but one which disclosed circumstances requiring explanations, and the defendants did not explain, the perplexing question of their guilt need not disturb the minds of the jurors; their silence supplied in the presumptions of the law that full proof which should dispel all reasonable doubt. In other words, the Court instructed the jury, in substance, that the Government need only prove that the defendants were presumptively guilty, and the duty thereupon devolved upon them to establish their innocence, and if they did not they were guilty beyond a reasonable doubt.

"We do not think it at all necessary to go into any argument to show the error of this instruction. The error is palpable on its statement. All the authorities condemn it."

The decisions in the above cases, and in *United States vs. The Brig Burdett*, 9 Peters, 682, at pages 690, 691, support our contention that the Circuit Court erred in its determination that proof by a preponderance of evidence only, and not proof beyond a reasonable doubt, was requisite to establish the guilty consent or privity of the master, upon the ground that the case was not a purely civil cause. But in view of the decision in *United States vs. Boyd*, 116 U. S., 616, approved in *Lees vs. United States*, 150 U. S., 480, which was a case to enforce a forfeiture and penalty under similar statutory provisions, we may safely assert that the action at bar is in substance and effect a criminal action.

In *United States vs. Boyd* the case was an information in a cause of seizure and forfeiture of property, under a customs revenue law passed June 22, 1874, 18 Stats., 186, and this Court says in the opinion, at foot of page 633:

"We are also clearly of opinion that proceedings instituted for the purpose of declaring the forfeiture of a man's property by reason of offenses committed by him, though they may be civil in form, are in their nature criminal. * * * The information, though technically a civil proceeding, is in substance and effect a criminal one."

If the case at bar is a criminal action, there can be no question but that this determination of the Court below was error.

POINT II.

Of the Errors Assigned as (B) Under First.

All that is said under Point I. is equally applicable to this assignment of error, and this besides.

The Circuit Court in this case, in effect, construes and interprets the Act of 1881 out of existence, and deprived the appellant of any benefit of its provisions whatever. That Court, instead of applying or enforcing the act, read into it provisions directly hostile and irreconcilable with its plain language.

The act is plain, free from ambiguity and imports no doubtful or questionable meaning.

So far as applicable to the case at bar, the act is:

"No vessel * * * shall be subject to * * * forfeiture by force of * * * unless it shall appear that the owner or master * * * was, &c."

The Court, in applying it, made this simple language read as if, after the words "unless it shall appear," Congress had inserted the words "by a preponderance of evidence," or some other doubtful or uncertain words of qualification or modification of, "shall appear."

No rule or canon of construction or interpretation can be cited for such treatment of plain, simple, certain statutory language. There is no room for construction or interpretation in such case. To construe or interpret the plain, positive and express language of a statute is to alter, amend or repeal it—a function not yet vested in the Circuit Court under our Constitution and laws.

This statute and its history is very fully treated and discussed in the opinion of Judge BROWN, in the case of *The Saratoga*, in the District Court for the Southern District of New York, reported in 9 Federal Reporter, 322.

The opinion, after stating the history of the identical sections of Title 34, which are sought to be enforced in this action at bar, and especially Section 3088, states the reasons for his conclusions as to the intent and meaning of the Act of 1881, and we urge the decision in that case as convincing and controlling, for the construction and application of the Act of 1881, contended for by appellant. That case was affirmed by the Circuit Court, in 15 Fed. Rep., 352, and has been approved and followed in the *Snow Drop*, 30 Fed. Rep., 79; in *United States vs. The Walla Walla*, 44 Fed. Rep., 798, and in *United States vs. Shapleigh*, 54 Fed. Rep., 126.

POINT III.

Of the Errors Assigned Under Second, as (A) (B) and (C).

These errors are alleged upon the ground that the findings of fact by the Circuit Court there pointed out (that the alleged illegal acts were done with the guilty knowledge, consent, assistance or privity of the master) constitute a question of law arising upon the record, and involve the determination of a question of law arising upon the record as defined by the Act of February 16, 1875, c. 77, Sec. I., *because the record does not contain any evidence whatever to sustain said findings of fact.* Because there is no evidence from which the conclusion of fact, guilty knowledge, consent or intent of the master, can be legally inferred.

We submit that in presenting and urging these errors we do not seek to expand the limit of the jurisdiction or authority of this Court as defined by the Act of 1875, of which it was said by this Court, in the *Gazette and Cargo*, 128 U. S., 474, at page 484:

"The limit thus prescribed has been steadfastly upheld by this Court against repeated attempts to escape from it (*The Abbotsford*, 98 U. S., 440; *The Benefactor*, 102 *Id.*, 214; *The Annie Lindley*, 104 *Id.*, 185; *The Francis Wright*, 105 *Id.*, 381; *Sun Ins. Co. vs. Ocean Ins. Co.*, 107 *Id.*, 485; *The Adriatic*, 107 *Id.*, 512; *The Connemara*, 108 *Id.*, 352; *Merchants' Ins. Co. vs. Allen*, 121 *Id.*, 67)."

For in almost all of those decisions the right here insisted upon is pointed out and saved, namely, to review in this Court, *as an error of law appearing on the record* (containing all the evidence as here) a determination of fact which is without any legal evidence to sustain it.

The determination of this question appears to be repugnant to the spirit of the Act of 1875 and the repeated decisions of this Court that it will not weigh or consider the evidence; that the findings of fact of the Circuit Court in Admiralty are as conclusive as the verdict of a jury in an action at law. But the right to ask this Court to determine such a question, in a proper case, is clear under the decisions and by the language of the act itself.

Annexed to this brief, as Schedule B, is a carefully prepared analysis and summary of all the testimony, for both parties, which in any wise tends to show any knowledge, information or conduct of the master in regard to the opium found in the vessel, and demonstrates the proposition that the findings of the Court below, that the master was a consenting party or privy to the illegal acts, was without any evidence to sustain such findings.

POINT IV.

The errors assigned under Third are the legal conclusions from the errors of law appearing on the record in this cause; and the judgment and decree of the Circuit Court should be reversed, and the cause remanded to that Court with instructions to dismiss the libel, with costs, to the claimant, the owner.

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Schedule A.

SECTION 2806. No merchandise shall be brought into the United States from any foreign port in any vessel unless the master has on board manifests in writing of the cargo signed by such master.

SECTION 2807. Every manifest required by the preceding section shall contain :

FIRST. The name of the ports where the merchandise in such manifest mentioned were taken on board, and the ports within the United States for which the same are destined ; particularly noting the merchandise destined for each port respectively.

SECOND. The name, description and build of the vessel ; the true admeasurement or tonnage thereof ; the port to which such vessel belongs ; the name of each owner, according to the register of the same ; and the name of the master of such vessel.

THIRD. A just and particular account of all the merchandise, so laden on board, whether in packages or stowed loose, of any kind or nature whatever, together with the marks and numbers as marked on each package, and the number or quantity and description of the packages in words at length, whether leaguer, pipe, butt, puncheon, hogshead, barrel, keg, case, bale, pack, truss, chest, box, band-box, bundle, parcel, cask or package of any kind or sort, describing the same by its usual name or denomination.

FOURTH. The names of the persons to whom such packages are respectively consigned, agreeably to the bills of lading signed for the same, unless when the goods are consigned to order, when it shall be so expressed in the manifest.

FIFTH. The names of the several passengers on board the vessel, distinguishing whether cabin or steerage passengers, or both, with their baggage, specifying the number and description of packages belonging to each respectively.

SIXTH. An account of the sea stores remaining, if any.

SECTION 2808. If merchandise shall be imported, destined to be delivered in different districts or ports, the quantities and packages so destined to be delivered shall be inserted in successive order in the manifest ; and all spirits and wines constituting the whole or any

part of the cargo of any vessel shall also be inserted in successive order, distinguishing the ports to which the samemay be destined, and the kinds, qualities and quantities thereof.

SECTION 2809. If any merchandise is brought into the United States in any vessel whatever from any foreign port without having such a manifest on board, or which shall not be included or described in the manifest, or shall not agree therewith, the master shall be liable to a penalty equal to the value of such merchandise not included in such manifest; and all such merchandise not included in the manifest belonging or consigned to the master, mate, officers or crew of such vessel shall be forfeited.

SECTION 2867. If after the arrival of any vessel laden with merchandise and bound to the United States, within the limits of any collection district, or within four leagues of the coast, any part of the cargo of such vessel shall be unladen, for any purpose whatever, before such vessel has come to the proper place for the discharge of her cargo, or some part thereof, and has been there duly authorized by the proper officer of the customs to unlade the same, the master of such vessel and the mate, or other person next in command, shall respectively be liable to a penalty of one thousand dollars for each such offense, and the merchandise so unladen shall be forfeited, except in case of some unavoidable accident, necessity or distress of weather. In case of such unavoidable accident, necessity or distress, the master of such vessel shall give notice to, and, together with two or more of the officers or mariners on board such vessel, of whom the mate or other person next in command shall be one, shall make proof upon oath before the collector, or other chief officer of the customs of the district, within the limits of which such accident, necessity or distress happened, or before the collector, or other chief officer of the collection district, within the limits of which such vessel shall first afterward arrive, if the accident, necessity or distress happened not within the limits of any district, but within four leagues of the coasts of the United States. The collector, or other chief officer, is hereby authorized and required to administer such oath.

SECTION 2871. The collector of customs, with the concurrence of the naval officer, where there is one, of any port at which a steamship from a foreign port or place may arrive, upon or after the issuing of a general order, shall grant, upon proper application therefor, a special license to unlade the cargo of said vessel at night, that is to say, between sunset and sunrise, but, before any such special license is granted, the master, agents or consignees of the vessel shall execute and deliver to the collector a good and sufficient bond, to be approved by him, conditioned to indemnify and save the collector harmless from any and all losses and liabilities which may occur or be occasioned by reason of the granting of such special license. And any liability of the master or owner of any such steamship to the owner or consignee of any merchandise landed from her shall not be affected by the granting of such special license or of any general order, but such liability shall continue until the merchandise is properly removed from the dock whereon the same may be landed. The collector, under such general regulations as the Secretary of the Treasury may prescribe, shall fix a uniform and reasonable rate of compensation for like service, to be paid by the master, owner or consignee, whenever such special license is granted, and shall collect and distribute the same among the inspectors assigned to superintend the unlading of the cargo.

SECTION 2872. Except as authorized by the preceding section, no mechandise brought in any vessel from any foreign port shall be unladen or delivered from such vessel within the United States but in open day—that is to say, between the rising and the setting of the sun—except by special license from the collector of the port, and naval officer of the same, where there is one, for that purpose, nor at any time without a permit from the collector, and naval officer, if any, for such unlading or delivery.

SECTION 2873. If any merchandise shall be unladen or delivered from any vessel contrary to the preceding section, the master of such vessel, and every other person who shall knowingly be concerned, or aiding therein, or in removing, storing or otherwise securing such merchandise, shall each be liable to a penalty of four hundred dollars for each offense, and shall be disabled

from holding any office of trust or profit under the United States, for a term not exceeding seven years; and the collector of the district shall advertise the name of such person in a newspaper printed in the State in which he resides, within twenty days after each respective conviction.

SECTION 2874. All merchandise, so unladen or delivered contrary to the provisions of section twenty-eight hundred and seventy-two, shall become forfeited, and may be seized by any of the officers of the customs; and where the value thereof, according to the highest market price of the same, at the port or district where landed, shall amount to four hundred dollars, the vessel, tackle, apparel and furniture shall be subject to like forfeiture and seizure.

SECTION 3088. Whenever a vessel, or the owner or master of a vessel, has become subject to a penalty for a violation of the revenue laws of the United States, such vessel shall be holden for the payment of such penalty, and may be seized and proceeded against summarily by libel to recover such penalty.

Schedule B.

ANALYSIS AND SUMMARY OF ALL THE TESTIMONY FOR BOTH PARTIES WHICH IN ANYWISE TENDS TO SHOW ANY KNOWLEDGE, INFORMATION OR CONDUCT OF THE MASTER IN REGARD TO THE OPIUM FOUND IN THE VESSEL. THE FIGURES REFER TO THE PAGES OF THE ORIGINAL IN THE RECORD.

TESTIMONY FOR LIBELLANT.

Mr. Wintrowd, Inspector of Customs for District of Puget Sound, states: Was at Victoria, B. C., Dec. 8th, 1885, saw steamship "Idaho" there that day; she was bound for Alaska, and left Victoria at midnight. She was loading that day, and about seven o'clock P. M. took on board several barrels; was on end of the warehouse on the dock when barrels passed on board; there were present several of the crew and a wharfinger; a custom-house officer was on the dock at that time; the only ship's officer I recognized when the barrels were received was Mr. Craig, the second officer (47 to 49). Saw the barrels leave the Chinese house of Tai Yune on a dray, and followed them to the ship; saw them from the time they left the house until loaded into the hold; they were received on board as soon as they got their engines to work; thinks the second officer took charge of and superintended the lading of them; know Carroll was the master; don't know if he saw him that day at Victoria; the business of the house of Tai Yune is the manufacturing and preparing opium; opium prepared at Victoria is usually put up in one-half pound tins, and such tins with the label "Tai Yune" come from Victoria. Noticed the heads of the barrels were red; appeared to be old barrels used before, and not of uniform size (49 to 51). Did not see the barrels brought out of the Chinese house and put into the dray; did not see anything in regard to the movements of the parties before the dray started with the barrels from the house; when first noticed the dray, it started from the house; that is what attracted my attention, it starting from the house; one person—the driver—was on the dray then; heard no remarks by the drayman to any person on the delivery of the barrels on board ship as to what they contained; heard

no conversation with the master of the ship (51 to 52). On arrival of the dray at the wharf the custom-house officer and crew were on the wharf and ship. I was nearest the barrels when they were unloaded; something like 100 feet distant; it was dark; between 7 and 8 o'clock; the second officer was the only man I recognized when it was delivered on the ship (52 to 54).

Hanson, formerly sailor on the "Idaho," for nine months, running from Portland to Sitka. Carrol was master on the voyage in Dec., 1885; remembers that the vessel on that voyage at Victoria took on board some lumber and provisions; the lumber in the evening, the provisions came down in the afternoon. Assisted in taking in the freight. In the evening there was some provisions. We took aboard some barrels, rolled them in on the ship's deck down forward, and put them between decks; don't remember how many barrels; they came in two lots, don't remember what number in each lot; took no notice of their marks; don't recollect how they looked; they were pretty light; one man could handle them and turn them end over end. It was pretty dark that night. Do not know where Captain Carrol was when these goods were taken aboard; did not see him; does not know who had charge of the ship and directed their stowage; does not know where the freight clerk was at the time they were received. We stopped at Kassan Bay on the up trip, in the evening, before dark (54 to 56). Remained there only a few moments; took a couple of bundles of freight ashore, also some small packages and stuff. There is a wharf there; went to anchor and took freight ashore in a boat. Believe the fish cannery there belongs to Captain Carrol, or is leased by him, I am not sure; we took nothing aboard the ship there. On returning from Sitka, the ship stopped at Kassan Bay, at the wharf; put a few barrels ashore, eight or a dozen; could not swear they were the same barrels we took on board at Victoria; don't know whether they were or not. It was in the night time, about 12 o'clock, when we landed at Kassan Bay; did not see Captain Carrol during the time of landing the barrels there; he was in charge of the ship when she went into the bay. Nothing else put ashore besides the barrels that I remember; there was between four and five hundred barrels of salmon taken on board there; was working be-

low at the time; did not see Captain Carrol while the ship was there, until I came on deck to haul in the lines to let go on departing (56 to 58). Left the ship when she arrived at Port Townsend that trip; returned to Kassan Bay from Port Townsend on a revenue cutter; we started from Port Townsend Jan. 10th, in the afternoon; we went to Victoria, took a pilot there to Nannimo, there anchored one night. At Kassan Bay the cutter took on board fourteen barrels of opium; I saw them; did not handle or assist in landing aboard. I am almost sure that they were the same barrels landed there by the "Idaho." We took all the fourteen to Port Townsend on the cutter (58 to 59).

CROSS-EXAMINED:

Took on ship stores at Victoria in the evening; the ship stores, such as salt beef, pork, &c., comes aboard in barrels, and fresh meat and vegetables of every description; all the stuff received that afternoon after five o'clock was ship stores; understood all the barrels that came aboard were ship stores; ship went thence to Nannimo and north into Alaska; on the way north to Kassan Bay all the freight the vessel landed went aboard in ship's small boats, only a few small packages, no barrels landed at that time (59 to 60). On arrival at Sitka all freight was taken out of the vessel; we took some freight aboard again for Pinta, sent ashore by mistake on down trip; took on freight at different places; don't know where the barrels, landed at Kassan Bay on down trip, were taken aboard on the down trip, because we took barrels aboard at several places; load of barrels came aboard at Juneau; on the down trip Captain Waterbury, custom-house officer, or inspector, aboard all the way to Sitka from Victoria; on the downward trip Collector of customs Mr. French, was aboard, and at the time of landing at Kassan Bay (60 to 61); it is only on report and hearsay, that I stated that Captain Carroll was the owner or lessee of the cannery at Kassan Bay; made nine trips on the "Idaho," nine months; carried freight, mail and passengers on all trips, and handled barrels of all description on every trip; there was a custom-house inspector aboard most of the time; when he was aboard it was a uniform custom to stop at various places or ports in the night time, whenever we happened to arrive, and

discharge and take on cargo, day-time or night-time, as soon as the steamer arrived; cannot tell where the 14 barrels landed at Kassan Bay on down trip came aboard (61 to 62).

Beecher, Collector of Customs, Puget Sound District, since July, 1885, knew Captain Carroll who commanded the "Idaho," a common carrier, making monthly trips; on one such trip she left Port Townsend Dec. 8th; on her return arrived there Dec. 26th; I directed Chief-Inspector to search the "Idaho" on her arrival, and that afternoon the men found 20 lbs. of opium in the carpenter's room and 2 ½ lbs. in the engine room; the carpenter and watchman were brought up under arrest; the watchman proved satisfactorily that he was not implicated and was allowed to depart (62 to 63). Chas. Foster, the carpenter, was held and then released on $300 bail, Captain Carroll became his bail; the search was continued next day when 402 ½ pounds of opium found by inspector in the engine department, 140 lbs. aft of the boiler in the bilge of the ship; on the night of the 26th a barrel was broached and the contents taken away and traced by the chaff, through the ship, which led to the seizure of 140 lbs. in the bilge; 10 lbs. found in the aft part of the ship in gunny sacking; the Chinese cook on the 28th was arrested leaving the ship; he had 6 ½ pounds on him. On Dec. 30th finished the search and the vessel was allowed to depart. During the time of the search had several conversations with Captain Carroll in regard to the matter (63 to 64).

The particulars of the first conversation with him was: he said I had no right to detain him as he was not at the end of his route; I said I intended to give him a thorough search; that there was opium aboard the ship. He repeated that it was not the end of the route. I stated the mails were ashore; that was the end of the mail route. He seemed displeased with that. Had no more conversation then, except as to bailing the prisoners. Sunday he came to my office and objected to my detaining him longer. I said I wanted to hold him until I was satisfied there was no more opium until I had searched her thoroughly. At that point my deputy called me out, said some opium had been seized. I pointed it to him. They said it was opium, and laid the box down. Capt. Carroll said,

"Where did you get that?" and some one stated where it was found. He sat there when they opened the box, and was very inquisitive. He asked about this and that, and how I knew it was opium, and I explained as well as I knew. He sat there three hours while I was counting and examining the opium (64-65). Had no further conversation with the captain relative to that particular business, but had one relative to keeping his men out of the way. There was complaint that the men were running backward and forward in our way, and I asked him to assert his authority and see that the men did not get in our way. He said he would go, and he went to do so. I also heard him say to another, in regard to the occurrence as to the open port-hole at night, that he was aft, heard a noise and splash, and he supposed they were throwing it overboard, and he ran aft where the port was, found it closed, and could not find anybody.

I saw all the opium brought to the custom house. The carpenter's package was brought up in a small brown paper package, in a varnished kind of a valise, a cheap thing; two and a half pounds were in that, and five half-pound tins were done up in ordinary paper. Witness described the packages they were in: a match tin, soldered up; a lard case; a whiskey case; grocery boxes (65-67). Witness described visit to Kassan Bay and the fishery buildings. Says he heard the captain say he had a fishery in Alaska, but knows nothing further in regard to that, except from hearsay (69, 70). He narrates what was done at Kassan Bay at the time of the discovery and seizure of the fourteen barrels there (70-73). At folio 73 he narrates a conversation had with two coopers at the Kassan Bay Warehouse or fishery, in which one of the coopers stated as to some barrels, when they were left by the "Idaho" on her down trip, "Capt. Carroll said they were furs, and wanted us to be careful of them, and put them where they would not get damaged, because he was coming back the next trip—to be careful and don't cut those furs."

The remainder of Beecher's testimony is as to value and description of the opium packages (74 to 78).

On cross-examination Beecher said the captain asked to have the ship sealed up and sent with an inspector to Portland, where she could be discharged and searched without causing delay (78).

Libellant's witnesses Alexander (79–83), Blake (83–86), Minty (86–90), Wollens (90–92), Davis (92–94) and Lake (94–97) testified that they were severally officers of the custom house at Port Townsend at the time of the search of the "Idaho;" Alexander went to Kassan Bay on the Revenue Cutter and assisted in seizing there the barrels and identified them as those taken to the Custom House at Port Townsend. All the others assisted in the search and in the finding of opium on board the vessel; they state the places where it was found; the manner in which it was packed; the wrappings about it and the packages containing it. The only reference to Captain Carroll, by any of them, is by Davis, where in testifying to the finding of opium in the bilge of the vessel he said "Mr. Gardner (Inspector) was called, and Captain Carroll also was present; he was then present. I don't know whether he was called or not at the time we were pulling these boxes from the hole in the bilge" (p. 94).

Lieutenant Rhodes, U. S. N., accompanied Collector Beecher on the Cutter to Kassan Bay; described the locality, dock, buildings, the finding and opening of the barrels, their contents and the repacking of them (97–99).

McDonald, carpenter on cutter, confirms the testimony of Rhodes (99–101).

Gilbert Rhodes, custom house inspector, passenger on "Idaho" on her trip to Alaska in January (the trip next after the one in which the alleged illegal acts occurred); went aboard at Victoria, January 12th, 1886. Ship landed at Departure Bay, Tongas, Kassan Bay. At latter place a sloop came along and two men came aboard about two A. M.; remained aboard ten or fifteen minutes and went ashore in the sloop. Captain Carroll was in his state-room at the time, heard he was sick. I did not see him on the voyage until we arrived at Sitka, which was the first time I saw him. The men had an interview with the Captain. The fishery at Kassan Bay was generally spoken of as Captain Carroll's fishery (104–106).

E. A. Gardiner, inspector of customs, Port Townsend District, was at Victoria Dec. 8, 1885; saw "Idaho"

there, bound for Alaska; was at Port Townsend on her arrival there on her return trip. Introduced himself to Capt. Carroll and said to him, I ' was instructed to search the ship ; ' told him I wanted him to call Chief Engineer, steward and chief officer and instruct them to keep the men out of the way while the search was going on. The Captain called the men and so instructed them. Narrates method of search and the finding of opium as testified by former witnesses (111). During the search he had many conversation with Captain Carroll. During Sunday some of the crew persisted in coming to the part of the ship we were searching ; reported that to the captain ; he went to the steward and told him to take the men out of that part of the ship until we were through searching, but there was some little insubordination of the men in that respect. The men would come back. Any conversation I had with Captain Carroll was entirely satisfactory to me. I could find no fault, only his failure to keep them out of that part of the ship. I reported to him being interfered with during the search, two or three times (113). When he came on deck on Monday or Tuesday morning Captain Carroll was very anxious to get the ship away and proceed on the voyage, and said there was nothing more aboard the ship, certainly, that we had examined every part of the ship. He said he did not know, but was afraid something had been thrown overboard during the night, he had been taken sick in the night and while walking aft, about midships, heard something go into the water, looked over and saw a ray of light from a port partially opened ; that he immediately ran downstairs, found the open port, but no one was there. His inference was that some one had thrown opium overboard during the night. That was the substance of the conversation (114). A submarine diver made search of the bottom, but found nothing. He had a conversation with the captain about some barrels discharged from the ship, which he had instructed to be searched. Capt. Carroll said to me, "if you have those barrels examined I hope you will get a man that understands it, so the salmon will not be spoiled," and explained that he would sustain financial losses if there was not some care exercised, and told me the salmon belonged to him (116). The cross and re-direct examination of Gardiner (118-126) confirms his direct testimony, and at 122 in reply to a question,

"Now, Sir, do you know of anything of your own personal knowledge connecting Captain Carroll with any of that opium?" he answered, "No, I do not."

Mitchell, seaman on "Idaho" on voyage in question, described loading on ship at Victoria of two dray loads of barrels. Saw Capt. Carroll on dock, but did not know whether went from dock to ship or from dock up to Town of Victoria; this was before the dray loads arrived (128). Described the loading and unloading of freight on the trip, and the details of the voyage to Sitka and return (126–139).

J. H. Cameron and J. B. Libby testify as to a trip they made to Kassan Bay after the seizure (141–145).

TESTIMONY FOR RESPONDENT AND CLAIMANT.

Smith, freight clerk on "Idaho" on trip in question, narrates his duties, gives testimony from freight book, entries of the voyage of the freight loaded and unloaded, its character, dimensions, consignors, consignees, &c., during the voyage in question at the several landings, and the conduct of the ship's business (141-162); the shipment by Chas. R. Langtry, at Juneau, of the barrels and bales to Kassan Bay, which were the 14 barrels seized and contained the opium, and the unloading of the vessel at Kassan Bay. That the arrangement for the transportation of these barrels and bales was made by Langtry with witness at the time the ship called at Juneau on her trip up; gives the conversation, and shows the shipping transaction was in the usual manner, and the business done in regard to their loading and unloading. That the ship stores were purchased at Victoria by contract; that witness heard no conversation between the captain and Langtry at Juneau in regard to the freight of Langtry (162–166).

Captain Waterbury, United States Customs Inspector, was Inspector afloat on the Idaho from May 18, 1884. Since the summer of 1885 he joined the ship at Tongas when she was on her Sitka route. Tongas was, by

special Treasury Department order, made a point for discharging freight in the night time, so the ship could land there, take the inspector on board there, and discharge at the different points on the route in the night time, after leaving Tongas with inspector aboard. He supervised the discharging on behalf of the custom house at the different points. Was aboard the December, 1885, voyage. Joined ship at Port Townsend; was on her at Victoria, and during that voyage was in charge of the ship on behalf of the custom house until she reached Sitka. He resigned there; Dec. 18th came down to Juneau on her with Collector French. Thence down Collector French was in charge. Was on the dock at Juneau when ship's freight was landed there on her up voyage. It was the duty of himself and of the inspector to supervise landing of Juneau freight (166–168). He describes the barrels consigned by Langtry on the dock; saw them then for the first time; they resembled the barrels he saw at custom house at Port Townsend when he went there with Capt. Carroll (168–169). Saw barrels loaded on vessel the evening of Dec. 8th, 1885; some were marked ship's stores; was there as custom inspector; describes his habits as inspector on the ship, and the ship's custom of taking on stores at Victoria (169–175).

Captain Carroll, Master of the "Idaho," has been Master of that ship on the Alaska route for sixty-nine round trips, about six years, and made the trip of December, 1885. States the route; produces log book and gives the landings, time, &c. At Victoria, Dec. 8th, was about the ship a good part of the day; where she was at dock was one and a half miles from business part of town. The evening of that day he was at the Victoria theatre, having left the ship shortly after six o'clock that evening (175–177). The only freight he remembered coming aboard that day, prior to his leaving for the theatre, was building material for Juneau. Saw no barrels put aboard that day; returned to ship from theatre about midnight and sailed at once. States how ship was victualled (177, 178). States that he restowed the ship at Departure Bay to make room for coal; superintended it personally; saw no barrels or freight of unusual appearance (178); describes further progress of voyage; that no barrels were discharged at Kassan Bay going north; In-

pectors Webster and Waterbury on board on reaching Juneau; arrived about midnight; began discharging at once, as usual, because of permit from Secretary of the Treasury (178–181). Produces paper he acted on in unlading without going to nearest custom house, which was at Sitka. Had several such permits. As to how permits were obtained, he said: "When I first ran to "Alaska we only had two ports to land at. One was "Wrangel and the other Sitka. They had custom house "officers at Wrangel to look after the discharge and "loading of freight. That was the first place we went. "The next place was Sitka. There was the principal "custom house—the collector. In the course of a "year or so, there were several fishing and trading "places started up this side of the custom house. "According to law, I knew I could not land at those "places without going to the custom houses. I talked "the matter over with the collector and there was "correspondence with the agents below about it. We "tried to get a custom house at Tongas; it was at the "lower end of the island—southeast end of Alaska— "just got from British Columbia onto Alaska, but we "could not make it for a long time, but finally the "collector got an inspector appointed to travel on the "steamers and to allow us to land freight without "going to a custom house." Our custom was to land freight, special inspector being on board (181–183).

As to freight at Juneau, which C. R. Langtry wanted to ship thence, he said: "A short time after I arrived, "probably not to exceed half an hour, a gentleman "came into my room and introduced himself as Lang- "try, and said that he had some freight that he wished "to land at Mr. Kinney's cannery at Cape Fox. He "wanted to know if I would go in and take it. I said, "'How much have you got?' He said he had prob- "ably a couple of tons. I said, 'We are not running "in there; we have nothing to go in there for, and our "tariff rates says we shall not call in there for less than "$100 for freight.' He said, 'That is rather high for "three tons of freight.' I said I could not do it for "any less; I did not think it proper. 'Well,' he says, "'are you going to land anywheres down about Naha "Bay or Kassan bay?' I said I was going into Kassan "Bay for a load of salmon that is there. He said all "right; he would ship it down there if it is all satis- "factory. I asked what it was. He said he had 14 "barrels of skins—10 to 12 bales. I did not recollect

" the skins and furs baled up. I happened to be on " the deck, and he showed them to me on the dock " with some other freight that was there " (183). The voyage thence to Sitka is described; the ship was there discharged of freight, and taking of return freight begun. Collector French and Inspector Waterbury returned from Sitka, the latter landing at Juneau. Return route the same. Reached Juneau at night of Dec. 19th. Took on Langtry's barrels of furs, bales of skins; also salmon barrels, 49 or 50. Sailed for Wrangel and Kassan Bay; there took on about 300 salmon barrels (183-186), and discharged the freight taken on at Juneau. The custom house officer then on board was Collector French. The Captain's only interest there is that the people there who do a business there—a fishery and trading post—owed him money for advances. The owner was Mrs. Bronowitch, a widow. He had lent them some money and they were to turn over the salmon, and he handled the salmon for them so as to secure him for the money; he to keep a certain amount but give them enough to keep the fishery going. Did not remember saying anything to the men handling the freight landed there; might have; it was a customary remark for him to make when he saw freight roughly handled, to be careful and not break it; to handle carefully, because there was so much damage to pay on freight. Did not say as to the barrels landed that they contained furs, or that I expected to bring more there. Gives movements of vessel thence to Port Townsend (186-188).

Captain Carrol testifies to the circumstances of the seizure, search of the vessel, the finding of opium and the arrest of the ship's watchman and carpenter, substantially as testified to by Libellant's witness Gardner (188 to 190). Being asked if he knew where the opium found on the ship came aboard and when and by whom, and the circumstances of its being brought on board, the Master said, " I do not, sir; there was " nobody more surprised than I was. I never thought " there was any opium on board." No circumstance was brought to his mind at any time before arrival at Port Townsend that there was opium aboard; that there was nothing to indicate to him that there was opium aboard at the time the ship left Victoria, December 8th. He also confirms Beecher's testimony as to the conversation between them about sealing the ship and permitting her to go to Portland, with in-

spectors in charge, to discharge (190). Also as to the conversation in which the captain asked that an experienced man examine the salmon barrels, to prevent damage; and as to the incident as to hearing a splash at night as if something had been thrown overboard and the reporting of the facts to Beecher and Gardner (190–193). Vessel carried a captain, first, second and third officer and a pilot, as deck officers; three engineers, steward, carpenter, purser and freight clerk. Steward purchased ship's stores at Victoria (193–195). Gives the itinery of the ship on that voyage and generally on like voyages; also distances; points out same on chart (195–199). Only saw Langtry on the up trip, when he arranged at Juneau for shipment of his goods to Kassan Bay on the down trip. Did not see him on the down trip. Had conversation at Port Townsend with Mr. Beecher and Mr. Gardner at the time of the search and seizure. They gave him to understand they expected to find a large quantity of opium; explains his interests in wharfs and fishery interests on that route (199–202). There was nothing in particular or unusual in the shipment of Langtry from Juneau to attract attention, or that there was anything wrong about it; knew nothing of the contents of the barrels, other than what Langtry said; had no reason to believe they contained anything else than furs; did not know of the seizure at Kassan Bay, at the time the vessel was searched; ship carries about forty-six men, all told; after she gets into Alaska she is a general boarding house. No freight or merchandise taken on at Victoria was omitted from the manifest to his knowledge (202–205). Never was in a Chinese opium house in Victoria; never in Chinatown except once, when he went with Collector Morris to seek a Chinaman he wanted to take to Alaska as a steward (205–207).

During the pendency of the cause on appeal to the United States Circuit Court, the following proofs were taken by the owner and claimant by depositions, and were read on the hearing of the appeal:

David Wallace was mate of the "Idaho" on her trip to Alaska in December, 1885; remembers taking on freight at Juneau on her down trip; took on a little for Wrangel and other points, and some barrels and bales of skins for Kassan Bay—a dozen bales and

about fifteen barrels; took the barrels from the outside and the bales from the inside of the warehouse at Juneau; the barrels were inside; I saw those barrels before, when ship stopped on her up trip; witness ordered them to be put outside to make room for freight then landed there; the barrels were then put just where we found them when ship came back from Sitka; took them aboard and landed them at Kassan Bay; knew they were the same barrels landed at Juneau; it was his business to know they were the barrels for Kassan Bay; took on two dray loads of barrels of salt provisions at Victoria going north; landed freight at Juneau going north; had clean swept hold at Sitka, except a few packages of iron which we forgot to land at Juneau; is sure barrels were not in the ship at Sitka; and that they were in the warehouse at Juneau when ship arrived there (233–235).

William Quest, steward on "Idaho" on her trip to Alaska in December, 1885, brought 3,000 pounds salt provisions at Victoria, in barrels and half barrels, as usual; also rice—about 15 barrels; they came aboard and were used; brought them from Van Valkenburg & Co., and rice from Ty Yoona (235, 236).

Benjamin Craig, second officer of "Idaho" same trip, confirms testimony of Quest as to provisions and rice, ship's stores, taken on at Victoria (236–238).

E. B. Lynch, proprietor of Kassan Bay fishery in Dec., 1885; the "Idaho" on her down trip in Dec., 1885, landed there 14 barrels and 10 bales at the wharf; took account of them; they were consigned to one Langtry; they were delivered to me as containing skins; delivered the bales to Mr. Langtry in January, 1886; did not deliver the barrels, as the revenue cutter took them away during absence of witness (238). As to delivery of the bales to Langtry, witness testified that on the last day of January, 1886, a man came to the wharf in a small schooner; said he was Mr. Langtry; asked for 14 barrels and 10 bales of skins shipped by the "Idaho" to be left in care of witness; took Langtry to warehouse and showed him the bales; he asked where the barrels of skins were; witness answered: "the barrels of skins be damned. There were none left here, but there was something else left here

in the barrels, and if you want it you can go down to the custom house in Port Townsend for it." Langtry tore around, wanted to get angry; took the bales, paid storage bill of $7.50 and left. Witness produced receipt given on delivery of the bales, as follows: "Kassan Bay, January 31st, 1886, Received from E. P. Lynch 10 bales of skins left here by steamer 'Idaho' for Charles R. Langtry. Chas. R. Langtry" (238–240).

Edward Webster, agent Northern Pacific Express Co. at Juneau; wharfinger at Juneau in December, 1885, and since August, 1884. On arrival of "Idaho," December 15th, 1885, there was a number of barrels of oil stored in warehouses and fourteen barrels and ten bales for shipment; mate came ashore and rolled the fourteen barrels out on to the dock to make room for his freight; the bales remained in a corner of the warehouse; the bales and barrels had been there three or four weeks before that time; the instructions left with them was to keep them until arrival of "Idaho," when they were to be shipped below. When "Idaho" arrived from Sitka they were shipped by the owner himself aboard of her; knows they were the same barrels and bales that were in the warehouse; they came on drays from the town, just as all town freight is brought; they were old barrels of different sizes, such as commonly used in that country to ship oil in and to pack salt skins in (240–242).

N. A. Fuller, superintendent Treadwell mine, resides at Douglas Island; lived in Alaska ten years; has general acquaintance with people traveling in and around Juneau; had met and known a man named Langtry, who was in the whiskey and prospecting business; does not know of his being engaged in any other business; saw him at Juneau within three months prior to November, 1887 (242).

Charles Wells, blacksmith; has been prospecting in Alaska ten years and doing a little of everything; knows Charles Langtry; he traded in whiskey or anything he could get; did a little in skins; he was at Juneau within six weeks prior to November 27, 1887.